

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 2, 2023

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: 895 0938 1203
3. Passcode: 861019

If you wish to speak during public comments or a particular item on the agenda, please sign-on by following the zoom call-in steps listed above. Once the presiding officer 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. Press *6 when asked to unmute. Listen to the instructions provided virtually on the phone while on hold in the zoom waiting room. Please note that there is a slight time delay when viewing the meeting via television.

IN ACCORDANCE WITH ASSEMBLY BILL 2449, MEMBERS OF THE LEGISLATIVE BODY MAY MEET IN-PERSON OR REMOTELY. TO PARTICIPATE REMOTELY VISIT WWW.OXNARD.ORG.

To find out how you may provide public comment, please refer to the instructions below or at [www.https://www.oxnard.org/city-meetings/](https://www.oxnard.org/city-meetings/).

The public may view the meeting from home on Spectrum channel 10, Frontier channel 35, or YouTube at 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 remotely by 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 by 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 legislative body prior to the start of the meeting and made part of the legislative record.

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 include: (Minutes for Presentation + Council Discussion + Public Comment)

- c. Contact the City Clerk's Office at (805) 385-7803 to submit your request.

3. PROVIDE PUBLIC COMMENT REMOTELY DURING THE MEETING

- a. Follow Zoom details listed above.
- 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.

Please review the Zoom instructions on the registration page to help ensure there are no technical difficulties during your comments and help you understand public comment procedures using Zoom. Detailed participation instructions can be found at www.oxnard.org/city-meetings.

In the event of a disruption which prevents a legislative body of the City of Oxnard from broadcasting a meeting using a call-in option or internet-based service option, or in the event of a disruption within the City's control which prevents members of the public from offering public comment using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on a meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. However, if any of the broadcast options are disrupted, but any of the other broadcast options is still available to the public, the legislative body may take further action on items appearing on a meeting agenda without waiting for the disrupted broadcast option(s) to be restored.

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

A. ROLL CALL, POSTING OF AGENDA

THE FOLLOWING LEGISLATIVE BODIES ARE MEETING: City Council
Consideration of Teleconference Participation pursuant to Assembly Bill 2449.

B. APPOINTMENT ITEMS (5:00 PM)

1. Cultural & Community Services Department

SUBJECT: Senior Services Commission Annual Report.

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

Legislative Body: City Council

Contact: Terrel Harrison, (805) 385-7994

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 2023 as "Older Americans Month."
2. SUBJECT: Presentation of a Proclamation Designating the Month of May 2023 as "Asian American and Pacific Islander Heritage Month."
3. SUBJECT: Presentation of a Proclamation Designating the Month of May 2023 as "Mental Health Awareness 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 21, 2023 regular meeting as presented.

Legislative Body: City Council

Contact: Rose Chaparro, (805) 385-7805

2. Police Department

SUBJECT: Resolution Commending Marc Amon for over Twenty-Seven Years of Service to the City of Oxnard.

RECOMMENDATION: That the City Council adopt a resolution commending Marc Amon for over twenty-seven years of service to the City of Oxnard Police Department.

Legislative Body: City Council

Contact: Jason Benites, (805) 385-7624

3. Police Department

SUBJECT: Motorola Solutions Handheld Radio Purchase.

RECOMMENDATION: That the City Council approve and authorize the execution of a purchase order with Motorola Solutions in the amount of \$374,941.10 for the purchase of 67 Motorola APX-8000 portable radios.

Legislative Body: City Council

Contact: Jason Benites, (805) 385-7624

4. Information Technology Department

SUBJECT: First Amendment to IT Transformation Plan Execution Strategy & Roadmap Agreement #32300240 with Avasant LLC.

RECOMMENDATION: That City Council approve and the Mayor execute a first amendment to Avasant LLC professional services agreement #32300240 for information technology consulting services for an additional \$130,375 resulting in a revised not-to-exceed total cost of \$279,375 for the completion of an IT transformation plan execution strategy and roadmap on or before June 30, 2023.

(As of the date of this City Council agenda being posted, there is not yet an outcome from the April 28, 2022 Finance and Governance Committee.)

Legislative Body: City Council

Contact: Helen Miller, (805)385-7446

5. Community Development Department

SUBJECT: Planning and Zoning Permit No. 21-300-04 (Final Map for 21-300-04) for the 1600 Ives Avenue Subdivision. Filed by Hassan Amirsadeghi, Habitat Properties, 10717 Wilshire Boulevard, Unit 607, Los Angeles, California 90024.

RECOMMENDATION: That the Oxnard City Council:

1. Accept Final Map 21-300-04 for the 1600 Ives Avenue Subdivision;
2. Receive and file a "Notice of Pending Approval" for Parcel Map 21-300-04 by the Interim Community Development Director including signature of "City Council's Certificate" on the title sheet.
3. Authorize the City Clerk to sign the "Abandonment Certificate" for the vacation of certain infrastructure easements.

Legislative Body: City Council

Contact: Maureen Tamuri, (805) 385-7882

6. Public Works Department

SUBJECT: Proposed User Fees for Group Picnic Site Reservations within CFD Number 7.

RECOMMENDATION: That the City Council adopt a resolution establishing new user fees for two new picnic areas built within the Community Facilities District Number 7, Wagon Wheel.

(Finance and Governance Committee approved 2-0.)

Legislative Body: City Council

Contact: Michael Wolfe, (805) 385-8055

7. Community Development Department

SUBJECT: Project Name: Ventura Road Electronic Billboard Project; Located on an approximately 1,000-square foot undeveloped site located on the north side of the U.S. 101 and immediately west of Ventura Road in the northern portion of the City of Oxnard. APN: N/A and along the Ventura Freeway (Highway 101) in The RiverPark Specific Plan area.

RECOMMENDATION: That the City Council:

1. Adopt Ordinance No. 3026 approving Planning and Zoning Permit No. 20-630-02 (Specific Plan Amendment No. 8 to the RiverPark Specific Plan) for text amendments to the RiverPark Specific Plan, subject to certain findings; and
2. Adopt Ordinance No. 3027 approving Planning and Zoning Permit No. 20-670-05

(Development Agreement No. A-8516), subject to certain findings.

Legislative Body: City Council

Contact: Maureen Tamuri, (805) 385-7882

8. Community Development Department

SUBJECT: Project Name: RiverPark Boulevard Electronic Billboard Project; Located on an approximately 0.25-acre undeveloped site located between the U.S. 101 and RiverPark Boulevard approximately 850 feet north of Vineyard Avenue in the northern portion of the City of Oxnard (APN: 132-0-311-075) and along the Ventura Freeway (Highway 101) in the RiverPark Specific Plan area.

RECOMMENDATION: That the City Council:

1. Adopt Ordinance No. 3024 approving Planning and Zoning Permit No. 20-630-02 (Specific Plan Amendment No. 8 to the RiverPark Specific Plan) for text amendments to the RiverPark Specific Plan, subject to certain findings; and

2. Adopt Ordinance No. 3025 approving Planning and Zoning Permit No. 20-670-06 (Development Agreement No. A-8515), subject to certain findings.

Legislative Body: City Council

Contact: Maureen Tamuri, (805) 385-7882

K. PUBLIC HEARINGS

1. Public Works Department

SUBJECT: Public Hearing on Proposed Water Rate Increases and Introduction of an Ordinance Establishing New Water Rates, Fees and Charges. (120 minutes)

RECOMMENDATION: That City Council:

1. Hold a public hearing to receive public testimony and consider all protests concerning the adoption of an ordinance establishing water system user rates, fees and charges; and

2. Find that the California Environmental Quality Act (CEQA) does not apply to the ordinance that modifies the City's water rates, according to Public Resource Code sections 21080(b)(8) and 21083 in conjunction with the exemption listed in 14 California Code of Regulations section 15273; and

3. Approve the introduction and first reading by title only and waive any further reading of the ordinance establishing rates, fees and charges for the use of and services relating to the City's water services.

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

video: https://youtu.be/pgnAtn_SHLk

Legislative Body: City Council

Contact: Michael Wolfe, (805) 385-8055

2. Community Development Department

SUBJECT: Project Del Sol High School Street Naming; Planning and Zoning (PZ) Permit No. 22-650-01 (Street Name Change); Located near the northeast corner of Rose Avenue and Camino Del Sol. (20 minutes)

RECOMMENDATION: That the City Council:

1. Conduct a public hearing; and
2. Find the project Exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3); and
3. Adopt a Resolution approving the request to name the currently unnamed streets Jaguar Way and Jacinto Drive.

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/rEPDXp8Iz8>

Legislative Body: City Council

Contact: Maureen Tamuri, (805) 385-7882

3. Community Development Department

SUBJECT: Recovery of Nuisance Abatement Costs. (15 minutes)

RECOMMENDATION: That the City Council:

1. Conduct a public hearing to consider objections to the cost report of the property owners whose property is to be assessed for nuisance abatement costs;
2. Approve the cost report; and
3. Direct the City Manager or designee to file a certified copy of the cost report with the Ventura County Auditor-Controller.

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/iWF85RM9ydE>

Legislative Body: City Council

Contact: Maureen Tamuri, (805) 385-7882

L. REPORTS

1. Information Technology Department

SUBJECT: Purchase of Microsoft products 'piggybacking' off of County of Riverside Microsoft Enterprise Agreement. (10 minutes)

RECOMMENDATION: That the City Council:

1. Approve "piggybacking" off of the County of Riverside's Microsoft Enterprise Agreement 8084445 licensed service provider agreement PSA- 0001522; and
2. Authorize the Mayor to execute a purchase order with CDW Government LLC, a "piggyback" service provider and authorized Microsoft reseller, for an amount not-to-exceed \$1,727,616 for the continued use and purchase of Microsoft products for three years beginning May 1, 2023, through April 30, 2026; and
3. Authorize the Mayor to execute a Microsoft Volume Licensing Program Signature Form.

(Finance and Governance Committee approved 3-0.)

Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/D1pz1ZV_UzE

Legislative Body: City Council

Contact: Helen Miller, (805)385-7446

2. City Treasurer

SUBJECT: City Treasurer's Quarterly Investment Report for the Period Ending March 31, 2023. (10 minutes)

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/YnL7SFWKYsc>

Legislative Body: City Council

Contact: Phillip Molina, (805) 385-7808

3. Public Works Department

SUBJECT: Professional Services Agreement 32300386 with COAR Design Group for the Fire Stations No. 2, 3 and 4 for Professional Architectural and Engineering Design Services. (10 minutes)

RECOMMENDATION: That the City Council approve and authorize:

1. The execution of an Agreement with COAR Design Group, in the amount of \$5,414,207 for professional design services for new Fire Stations No. 2, 3, and 4 (Project Nos. C1702/172201 and C2255/22AR54); and

2. A project budget appropriation transfer in the amount of \$550,000 in the Capital Growth Fees Fund (355) from the Fire Station No. 4 Project (Project No. C1702/172201) to the Fire Stations No. 2, 3, and 5 Project (Project No. C2255/22AR54).

(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/mTlwRP7mYjc>

Legislative Body: City Council

Contact: Michael Wolfe, (805) 385-8055

4. Public Works Department

SUBJECT: Updates to the Five Year Capital Improvement Program for Fiscal Years 2022-2027. (10 minutes)

RECOMMENDATION: That the City Council:

1. Approve and adopt updates to the 2022-2027 City of Oxnard Five Year Capital Improvement Program; and

2. Authorize project budget appropriations of \$2,000,000 in Fiscal Year 2022-23 from the Capital Growth Fees Fund for the Fire Station 4 Rebuild Project (C1702/172201).

(Public Works and Transportation Committee approved 2-0.)

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/EeVF3FMUviA>

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Legislative Body: City Council

Contact: Michael Wolfe, (805) 385-8055

5. Public Works Department

SUBJECT: State of California's Corrective Action Plan for the City of Oxnard's Solid Waste Operations. (10 minutes)

RECOMMENDATION: That the City Council receive and file the State of California Senate Bill 619 Corrective Action Plan (CAP) for the City of Oxnard's Solid Waste Operations.

(Public Works and Transportation Committee approved 2-0.)

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/1bhs0J2LKNU>

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 2, 2023
TO: City Council
FROM: Terrel Harrison, Cultural & Community Services Director, (805) 385-7994, terrel.harrison@oxnard.org
SUBJECT: Senior Services Commission Annual Report.

RECOMMENDATION

That City Council receives the Senior Services Commission annual report.

BACKGROUND

The Senior Services Commission's annual report to the Council is usually 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 2022, a recovery period following two years of COVID-19 and its impact on the population we serve. This was a year of rebuilding and reconnecting as we reopened programs and strove to make senior participants feel safe. Some of the activities adopted during the pandemic, e.g., the Halloween Trunk or Treat, were so popular we continued them this year.

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

1. Commission 2023 Annual Report PPT

2023 Annual Senior Services Commission Report

5/2/23

A visit by federal officials



US Secretary of Health & Human Services Xavier Becerra and Congresswoman Julia Brownley visit Wilson Senior Center.



HHS Secretary visit



Secretary Becerra visits with RSVP's tai chi instructors and, along with Congresswoman Brownley, gets a lesson with Bone Builder's Master Trainer Jane Piliavin.

HHS Secretary visit



Oops, the Secretary was a good sport about being corrected by the Master Trainer.

Senior Nutrition

Senior Nutrition and COVID



- COVID created new demands and changed approaches
- Constant adjustment, but our kitchen remained open throughout the pandemic
- World Central Kitchen stepped in to help
- Great Plates program filled in gaps
- Meals were designed for senior diets
- Our Home Delivered Meals program expanded greatly

Senior Nutrition



- 19,575 Congregate Meals; 378 unduplicated participants
- 23,510 Home-Delivered Meals; 270 unduplicated participants
- Distributed food coupons at the Farmers Market
- Weekday meals started at Colonia Senior Center, 1/9/23

Senior Services Programming

Senior Center Fun!



More Senior Center Fun!



Art in the Garden



Art in the Garden at Wilson



Excursions



Celebrations

Halloween Trunk or Treat



Christmas Party



End of Summer Celebration



100th Birthday Celebrations



Happy Birthday to You ...



And Just Everyday Celebrations



Strawberry Shortcake Day



Earth Day

RSVP
RSVP Bone Builders
Tai Chi: Moving for Better Balance

RSVP



- 319 unduplicated volunteers
- 37,647 hours of service
- \$1,338,757 in time and talent

RSVP volunteers serve at the Oxnard Public Library gift shop.

RSVP Bone Builders



- 20 classes, 437 participants
- 91 volunteers



Tai Chi: Moving For Better Balance



- 9 classes, 288 participants
- 32 volunteers



World Tai Chi Day Celebration



East Park

RSVP Drive-Thru Volunteer Recognition



Breakfast drive-thru at
Oakmont at Riverpark

RSVP TCMBB Appreciation



Guided Paint and Sip (tea)



RSVP Open House



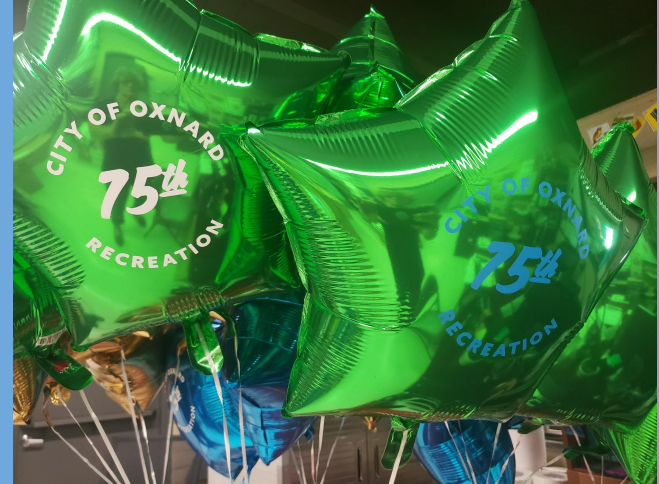
Introducing New RSVP Coordinator Matt O'Neill

Senior Participation in Recreation Events

Celebrating 75 Years of Recreation



SOC Line Dancers



Dia de los Muertos



Participants at our senior centers made altar decorations and held a reception to celebrate.

Ask an Abuelita (Tamale Festival)



Filming promotional video



At Festival

Goals Accomplished

- Reopened Colonia Senior Center
- Completed a feasibility study on ORCAS
- Ongoing ORCAS subcommittee reports to the Commission

ORCAS

- Feasibility study completed
- Project is currently on hold

Goals for 2023

- Start a Walking Program
- Increased Health Education Programming
- Program Evaluation
- Technology Programming

**For more information,
contact the Senior Services
office at 805-385-8019.**



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

DATE: May 2, 2023
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 21, 2023 regular meeting 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 21 2023 CC Regular Meeting

MINUTES
OXNARD CITY COUNCIL
Regular Meeting
March 21, 2023

A. **ROLL CALL, POSTING OF AGENDA**

At 4:32 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, Oscar Madrigal, Bert E. Perello, Gabriel (Gabe) Teran, Mayor Pro Tem Bryan A. MacDonald, and Mayor John C. Zaragoza were present.

Housing Authority Commissioners Jose Andrade and Francisco Vega were absent.

Staff members present in person were Alexander Nguyen, City Manager; Ashley Golden, Assistant City Manager; Shiri Klima, Deputy City Manager; Stephen M. Fischer, City Attorney; Ken Rozell, Chief Assistant City Attorney; Jason Zaragoza, Deputy City Attorney; Jason Benites, Police Chief; Alexander Hamilton, Fire Chief; Michael Wolfe, Public Works Director; Brian Yanez, Assistant Public Works Director; Steve Howlett, Assistant Public Works Director; Jose Arreola, Fleet Services Manager; Joe Pearson II, AICP, Planning and Environmental Services Manager; Kathleen Mallory, Planning & Sustainability Manager; Helen Miller, Chief Information Officer; Emilio Ramirez, Housing Director; Albert Ramirez, Assistant Housing Director; Brenda Lopez, Housing Programs Manager; Denise Olson, Interim Chief Financial Officer; Mark Sewell, Assistant Chief Financial Officer; Victor Zambrano, Budget Manager; Dee Lai, Assistant City Clerk and Rose Chaparro, City Clerk.

Andy Bhatnagar, ERP Consultants; Lars Skugstad, Foster Interstate Media, Inc.; Alex Belenson, Manager of Business Development at Foster Interstate Media, Inc.; Katie Metz, Director of Real Estate at Outfront Media; Daryl Koutnik, Ph.D., Biological & Environmental Compliance Principal at Environmental Science Associates (ESA); and Michael Houlihan, AICP, Principal Associate at Environmental Science Associates (ESA) also participated via videoconference.

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

B. **PUBLIC COMMENTS ON CLOSED SESSION ITEMS** (None received.)

C. **CLOSED SESSION (4:30 PM)**

1. **CONFERENCE WITH REAL PROPERTY NEGOTIATORS** – (Government Code section 54956.8)

Property: 2900 Saviers Road (APN 219-0-018-035)

Agency Negotiator: Emilio Ramirez, Housing Director; Ashley Golden, Assistant City Manager; Alex Nguyen, City Manager

Negotiating Party: BV Oxnard, LLC
Under Negotiation: Price and terms of payment
Legislative Body: City Council

At 4:35 p.m., the City Council recessed to a closed session. At 5:12 p.m., the City Council reconvened in open session in the Council Chambers. The City Attorney announced that the City's negotiators have negotiated a Purchase and Sales Agreement and the City is conducting its due diligence on the Property. The Agreement will be brought to a future open session for Council discussion and approval.

D. APPOINTMENT ITEMS (5:00 PM)

1. City Manager Department

SUBJECT: Presentation by Kai Luoma, Executive Officer for the Ventura Local Agency Formation Commission (LAFCo).

RECOMMENDATION: That the City Council receive and file a presentation by Kai Luoma, Executive Officer for the Ventura Local Agency Formation Commission (LAFCo), providing an introduction to and overview of LAFCo.

Kai Luoma, AICP, Executive Officer for the Ventura Local Agency Formation Commission (LAFCo) presented to City Council and answered questions.

E. OPENING CEREMONIES (6:00 PM)

The flag salute was followed by a moment of silence.

F. CEREMONIAL ITEMS

1. SUBJECT: Presentation of a Proclamation Designating March 31, 2023 as "Cesar E. Chavez Day."

Javier Gomez, Artistic Director & Founder of Inlakech Cultural Arts Center, as a cultural arts educator accepted the proclamation and said a few words. Since, 1973 to the present, Director Gomez has served as the artistic director; creating, promoting, instructing and supervising the educational, cultural arts programming.

2. SUBJECT: Presentation of a Commendation to the Oxnard Performing Arts & Convention Center on the occasion of their 55th Anniversary.

Gary Blum, Board President of the Oxnard Performing Arts and Convention Center and the Board of Directors accepted the Commendation and said a few words.

G. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA (No comments received.)

H. REPORT OF CITY MANAGER/EXECUTIVE DIRECTOR/SECRETARY

City Manager Nguyen provided community updates. He announced that SoCalGas will set aside \$10 million in support for low income families, seniors, and small restaurant owners impacted by unprecedented regional gas market prices. For more information on this program, please call: English: 877-238-0092, Spanish: 800-342-4545. Community Action of Ventura County will continue its utility bill assistance program and will hold an application assistance workshop on March 27, 2023. For information call 805-436-4000. Congratulations to the Oxnard Fire Department for being awarded the 2023 American Red Cross Good Neighbor Award. The Oxnard Fire Department is offering installation of free smoke detectors for high risk residents to ensure proper fire protection systems and working alarms while supplies last. To schedule an appointment contact the Fire Department at 805-982-7282.

1. City Attorney Department

SUBJECT: Termination of Local Emergency Due to COVID-19.

RECOMMENDATION: That the City Council adopt **Resolution #15,666** proclaiming the termination of a local emergency due to COVID-19.

Stephen M. Fischer, City Attorney presented the item. Jason Zaragoza, Deputy City Attorney answered questions. No public comments were received. Discussion ensued among the Council and staff.

It was moved by Councilmember Perello, seconded by Councilmember Basua, to approve the recommended action as presented. VOTE: Basua, MacDonald, Madrigal, Perello, Teran, and Zaragoza voted in favor; motion passed 6-0.

2. City Attorney Department

SUBJECT: Termination of Local Emergency Due to Severe Storms.

RECOMMENDATION: That the City Council adopt **Resolution #15,667** proclaiming the termination of a local emergency due to severe storms.

Stephen M. Fischer, City Attorney presented the item. Jason Zaragoza, Deputy City Attorney; Alexander Hamilton, Fire Chief; and Michael Wolfe, Public Works Director answered questions. No public comments were received. Discussion ensued among the Council and staff.

It was moved by Councilmember Teran, seconded by Councilmember Perello, to approve the recommended action as presented. VOTE: Basua, MacDonald, Madrigal, Perello, Teran, and Zaragoza voted in favor; motion passed 6-0.

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

Councilmember Perello attended an event hosted by the Central Coast Labor Council, a commemoration of the 1903 betabeleros in which Japanese-Mexican laborers joined together. The Oxnard Strike of 1903, broke barriers of racial representation in the labor force and represented a historical moment in the American labor movement because it was the first time in American history that members of different racial heritages allied together to form a cohesive labor union. He also attended the Oxnard Youth Baseball, 2023 Opening Ceremonies, PONY

League. He participated in the “Read Across America” at Harrington Elementary School and Rose Avenue Elementary School.

Mayor Pro Tem MacDonald is the Board Vice Chair for the Southern California Regional Rail Authority (Amtrak Pacific Surf liner). This agency provides rail transportation in Southern California from San Diego to San Luis Obispo. He provided an update on the progress of the work being done at the Amtrak Pacific Surfliner train tracks and should be back on track by mid-April.

Councilmember Basua participated in the “Read Across America” at Harrington School. She attended the Tierra Vista Neighborhood Council meeting and thanked the Police Department for their efforts in this neighborhood.

Councilmember Madrigal announced that he has a new baby nephew, Mateo. He reminded residents to stay safe in this rainy weather.

Councilmember Teran also participated at the Central Coast Labor Council event and the “Read Across America” at Kamala School. He presented at the Rio High School avid classes where he spoke about his role in the City Council and his family’s history. He attended the Carriage Square Neighborhood Council meeting. He will also attend the upcoming District 2 Town Hall meeting at Rio Vista Middle School scheduled for March 22, 2023. The meeting will be focusing on the City Manager’s presentation on disparity around job opportunities, advancement for career, and education for residents of Oxnard. He encouraged residents to view the videos for the public meetings held concerning the water studies and rates. A request was made for future items on the meeting agendas. He asked for information on the project labor agreements and community workforce agreements and also a comprehensive update on the services being provided by the City to address the unhoused population.

Mayor Zaragoza participated in the “Read Across America” at Christa McAuliffe Elementary School. Tony League on opening day. He attended the Oxnard Youth Baseball, 2023 Opening Ceremonies, PONY League. He also attended the Sunset Little League Baseball of Oxnard event. A ceremony was held in honor of renaming the baseball field the “Helen Lopez Field.” Ms. Lopez volunteered to be the President of Sunset Little League for 38 years.

1. City Manager Department

SUBJECT: Appointment of Member to Serve on the City's Parks, Recreation, and Community Services Commission. (5 minutes)

RECOMMENDATION: That the Mayor, with the approval of the City Council, appoint Oscar Hernandez to serve on the Parks, Recreation, and Community Services Commission representing District 5.

Shiri Klima, Deputy City Manager presented and was available to answer questions. No public comments were received.

It was moved by Councilmember Basua, seconded by Mayor Pro Tem MacDonald, to approve the

recommended action as presented. VOTE: Basua, MacDonald, Madrigal, Perello, Teran, and Zaragoza voted in favor; motion passed 6-0.

J. REVIEW OF INFORMATION/CONSENT AGENDA

Items L-1 through L.12 were discussed among the Council and staff. Consent agenda item L.3 was pulled from the agenda.

K. PUBLIC COMMENTS ON INFORMATION/CONSENT AGENDA

L. INFORMATION/CONSENT AGENDA

1. City Clerk Department

SUBJECT: Approval of Minutes.

RECOMMENDATION: That the City Council approve the minutes of the February 7, 2023, February 11, 2023, and February 21, 2023 regular meetings as presented.

2. Police Department

SUBJECT: Agreement for Police School Resource Officer Services.

RECOMMENDATION: That the City Council approve and authorize the City Manager to enter into a cost-sharing agreement between the City of Oxnard (City), and the Oxnard School District (OSD or District), from July 1, 2023, to June 30, 2026, for Police School Resource Officer (SRO) Services.

(The Community Services, Public Safety, Housing, and Development Committee approved 3-0 on February 14, 2023, to approve the staff recommendation and to forward the item for Council approval.)

3. Public Works Department

SUBJECT: Public Project Construction Agreement 32300238 with 101 Roofing & Construction, Inc. for the Performing Arts Community Center Roof Replacement Project, Specification No. PW 23-34.

RECOMMENDATION: That the City Council approve and authorize the following for a total of \$807,021.69 in Project funds for the Performing Arts Community Center Roof Replacement Project (Project No. C2248):

1. Execute an Agreement with 101 Roofing & Construction, Inc. in the amount of \$620,785.92 for the Project;
2. Authorize a Project contingency amount of \$124,157.18 with 101 Roofing & Contracting, Inc. for a total not to exceed value of \$744,943.10 for the Project; and
3. A Project allocation amount of \$62,078.59 for engineering, inspection, survey and project management for the Project.

(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.)

(This item is categorically exempt from the California Environmental Quality Act pursuant to title 14 California Code of Regulations section 15301(d).)

4. Public Works Department

SUBJECT: Grant Resolution for FY 2022 Consolidated Appropriations Act Community Project Funding Grant Application for \$500,000.

RECOMMENDATION: That the City Council adopt **Resolution #15,668** authorizing the City Manager or designee to submit a grant application to the U.S. Environmental Protection Agency for \$500,000 in Community Grants funds for the City of Oxnard Water Transmission Line Project and execute grant agreements, if awarded; authorizing the Finance Director or designee to submit financial reports and grant claims and approve budget appropriations for the use of the grant funds; and authorizing the Public Works Director or designee to submit non-financial reports.

(This item did not originate in Committee.)

5. Public Works Department

SUBJECT: Professional Services Agreement 32300336 with Bureau Veritas Technical Assessments, LLC for Facilities Condition Assessment Report and Asset Management Program, Specification No. PW 22-127.

RECOMMENDATION: That the City Council approve and authorize a Professional Services Agreement with Bureau Veritas Technical Assessments, LLC in the amount not to exceed \$340,000 for a three-year term for Facilities Condition Assessment Report and Asset Management Program.

(Public Works and Transportation Committee approved 2-0.)

6. Housing Department

SUBJECT: Kitchen Rehabilitation Project at Public Housing Sites.

RECOMMENDATION: That the Board of Commissioners of the Housing Authority of the City of Oxnard:

Approve and authorize the execution of a firm-fixed-price Agreement number A-8519 in the amount of \$757,900 with MDJ Management, LLC to rehabilitate eighty-four kitchens at the "31-7 scattered public housing sites" using funds appropriated from the 2020 Capital Fund grant.

(The Community Services, Public Safety, Housing & Development Committee approved 3-0 on February 28, 2023 to approve the staff recommendation and to forward the item for Council approval.)

7. City Attorney Department

SUBJECT: Campaign Contribution and Loan Limit Adjustment.

RECOMMENDATION: That the City Council adopt **Resolution #15,669** titled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD ADJUSTING CAMPAIGN CONTRIBUTION LIMITS AND LOAN LIMITS SET FORTH IN SECTIONS 2-443 AND 2-444 OF THE OXNARD CITY CODE.

8. Public Works Department

SUBJECT: Public Project Agreement 32300257 with Blackpointe Group Construction & Management Inc. for On-Call Fencing Repair Services Project (Rebid), Specification No. SD 23-53R.

RECOMMENDATION: That the City Council approve and authorize an agreement with Blackpointe Group Construction & Management Inc. for a total amount not to exceed \$400,000 for a three-year term for On-Call Fencing Repair Services.

(This item is categorically exempt from the California Environmental Quality Act pursuant to Title 14 California Code of Regulations section 15301(d).)

(Public Works and Transportation Committee approved 2-0.)

9. Public Works Department

SUBJECT: Agreement 32300154 with Auto Body International, Inc. for Light and Medium Duty Paint and Body.

RECOMMENDATION: That the City Council approve and authorize an Agreement with Auto Body International, Inc. for a one-year term with the option to extend for two consecutive one year periods for a maximum contract term of three years, and a total contract not-to-exceed amount over the entire possible contract term of \$375,000 for light and medium duty paint and body work.

(Public Works and Transportation Committee approved 2-0.)

10. Fire Department

SUBJECT: Blanket Purchase Orders No. 32300265 Increase Request for All Star Fire Equipment.

RECOMMENDATION: That the City Council authorize the Mayor to execute an amendment to Blanket Purchase Order No. 32300265 with All Star Fire Equipment to increase the Purchase Order by \$200,000 for a total amount not to exceed \$400,000 for the purchase of structural firefighting Personal Protective Equipment (PPE) or turn outs and fire hose.

(The Community Development, Public Safety and Housing Committee approved 3-0 on 28 February, 2023 to forward the item for Council approval.)

11. Fire Department

SUBJECT: Purchase Order with Motorola for \$277,438.89 for 25 Radios.

RECOMMENDATION: That the City Council authorize the Mayor to sign a Purchase Order with Motorola Solutions in the amount of \$277,438.89 for the purchase of twenty-five (25) APX 8000 all-band portable radios with spare batteries and remote speaker microphones.

(The Community Development, Public Safety and Housing Committee approved 3-0 on February 28, 2023 to forward the item for Council approval.)

12. **City Manager Department**

SUBJECT: Update on Status and Accomplishments of Current Measure O Projects.

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

(The Measure O Citizen Oversight Committee heard this update at its January 26, 2023, meeting and recommended the item be forwarded to the City Council.)

Consent Items L.1, L.4, L.5, L.7 – L.12:

It was moved by Mayor Pro Tem MacDonald, seconded by Councilmember Madrigal, to approve the recommended action as presented. VOTE: Basua, MacDonald, Madrigal, Perello, Teran, and Zaragoza voted in favor; motion passed 6-0.

Consent Item L.2:

It was moved by Mayor Pro Tem MacDonald, seconded by Councilmember Madrigal, to approve the recommended action as presented. VOTE: Basua, MacDonald, Madrigal, Perello, and Zaragoza voted in favor; motion passed 5-0-1. Councilmember Teran abstained.

Consent Item L.3: This item was pulled from the agenda.

Housing Authority Consent Item L.6:

It was moved by Mayor Pro Tem MacDonald, seconded by Councilmember Madrigal, to approve the recommended action as presented. VOTE: Basua, MacDonald, Madrigal, Perello, Teran and Zaragoza voted in favor; motion passed 6-0. Housing Authority Commissioner Andrade and Commissioner Vega were absent.

M. **PUBLIC HEARINGS**

1. **Housing Department**

SUBJECT: TEFRA Hearing - Casa Aliento Apartments. (15 minutes)

RECOMMENDATION: That the City Council:

1. Conduct a Tax Equity and Fiscal Responsibility Act (TEFRA) Hearing regarding the issuance of tax-exempt bond financing not to exceed \$22,000,000 by the California Statewide Communities Development Authority (CSCDA) for the benefit of Casa Aliento, LP, to provide financing for the acquisition, construction, improvement, and equipping of a 70-unit multifamily rental housing project located at 1245 North Oxnard Boulevard, known as Casa Aliento Apartments (Bonds).

2. Adopt **Resolution #15,670** approving the issuance of the Bonds by the CSCDA.

(This item did not originate in Committee.)

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

Emilio Ramirez, Housing Director presented and answered questions.

Mayor Zaragoza opened the public testimony portion of the public hearing. No public comments were received.

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

It was moved by Mayor Pro Tem MacDonald, seconded by Councilmember Perello, to approve the recommended action as presented. VOTE: Basua, MacDonald, Madrigal, Perello, Teran, and Zaragoza voted in favor; motion passed 6-0.

2. Housing Department

SUBJECT: TEFRA Hearing - Vintage at Lockwood Apartments. (15 minutes)

RECOMMENDATION: That the City Council:

1. Conduct a Tax Equity and Fiscal Responsibility Act (TEFRA) Hearing regarding the issuance of tax-exempt bond financing not to exceed \$75,000,000 by the California Statewide Communities Development Authority (CSCDA) for the benefit of Vintage at Lockwood, LP, to provide financing for the acquisition, construction, improvement, and equipping of a 341-unit multifamily rental housing project located at Outlet Center Drive & Lockwood Street known as Vintage at Lockwood Apartments (Bonds).

2. Adopt **Resolution #15,671** approving the issuance of the Bonds by the CSCDA.

(This item did not originate in Committee.)

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

Emilio Ramirez, Housing Director presented and answered questions.

Mayor Zaragoza opened the public testimony portion of the public hearing. No public comments were received.

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

It was moved by Councilmember Basua, seconded by Councilmember Teran, to approve the recommended action as presented. VOTE: Basua, MacDonald, Madrigal, Perello, Teran, and Zaragoza voted in favor; motion passed 6-0.

3. Housing Department

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

RECOMMENDATION: That the Board of Commissioners for the Housing Authority of the City of Oxnard:

1. Conduct a public hearing to receive comments concerning the fourth year of the 5-Year PHA Plan, the 2023 Capital Fund Budget, and the Capital Fund Five-Year Action Plan; and

2. Adopt **Resolution #H.A. 1337**:

- a. Approving the 2023 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 2023 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 2023 Capital Fund Budget and Capital Fund Five-Year Action Plan.

(The Community Services, Public Safety, Housing & Development Committee approved 3-0 on February 14, 2023 to approve the staff recommendation and to forward the item for Council approval.)

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

Emilio Ramirez, Housing Director presented and answered questions.

Mayor Zaragoza opened the public testimony portion of the public hearing. No public comments were received.

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

It was moved by Councilmember Perello, seconded by Councilmember Teran, to approve the recommended action as presented. VOTE: Basua, MacDonald, Madrigal, Perello, Teran, and Zaragoza voted in favor; motion passed 6-0. Housing Authority Commissioner Andrade and Commissioner Vega were absent.

4. Housing Department

SUBJECT: Third Amendment to the 2021-2022 Annual Action Plan to Incorporate Supplemental HOME American Rescue Plan (ARP) funding. (20 minutes)

RECOMMENDATION: That City Council:

1. Conduct a public hearing and receive public comments relating to the HOME ARP Allocation Plan;
2. Approve the HOME ARP Allocation Plan, as a Third Amendment to the 2021-2022 Annual Action Plan;
3. Authorize the City Manager, and his designees, to submit the Third Amendment to the 2021-2022 Annual Action Plan to the U.S. Department of Housing and Urban Development, including the required applications, certifications and other pertinent documents to complete the submitted items for federal approval;
4. Authorize the City Manager, and his designees, to approve the appropriations for the HOME American Rescue Plan funding for staff operations, approved projects and related consulting contracts, not to exceed \$2,772,021; and
5. Authorize the City Manager and his designees to execute the appropriate agreements with the HOME American Rescue Plan partners, consultants, and contractors, allow the use in the administration of funds, and allow the adjustments to any future funding needs not to exceed ten percent of the award if the programs require more or less funding to meet their objectives.

(This item is routine in nature and therefore, this item did not originate in the Committee.)

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

Emilio Ramirez, Housing Director presented and answered questions.

Mayor Zaragoza opened the public testimony portion of the public hearing. No public comments were received.

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

It was moved by Councilmember Perello, seconded by Councilmember Madrigal, to approve the recommended action as presented. VOTE: Basua, MacDonald, Madrigal, Perello, Teran, and Zaragoza voted in favor; motion passed 6-0.

5. Community Development Department

SUBJECT: Project Name: Freeway Adjacent Digital Display Billboards **Ordinance #3023:**

The project location is the U.S. Highway 101 adjacent property within the City of Oxnard City limit. (20 minutes)

RECOMMENDATION: That the City Council:

1. Conduct a public hearing, and

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

Option 1 – Staff’s Recommended Action – Allowing up to four Freeway Adjacent Digital Display Billboards at least 100 feet away from residentially zoned parcels and at least 2,000 feet away from other Freeway Adjacent Digital Display Billboards:

- a. Approve **Resolution #15,672** Adopting a Mitigated Negative Declaration (MND) 22-01; and
- b. Introduce an Ordinance (by title only, waiving further reading) approving Planning and Zoning Permit No. 20-580-06 (Zoning Text Amendment) allowing for Freeway Adjacent Digital Display Billboards within the City of Oxnard by amending specific provisions of Article IX of Chapter 16 of the Oxnard City Code, subject to certain findings.

Option 2 – Planning Commission Recommendation – Allowing up to three Freeway Adjacent Digital Display Billboards at least 250 feet away from residentially zoned parcels and at least 2,500 feet away from Freeway Adjacent Digital Display Billboards:

- a. Approve a Resolution Adopting a Mitigated Negative Declaration (MND) 22-01; and
- b. Introduce an Ordinance (by title only, waiving further reading) approving Planning and Zoning Permit No. 20-580-06 (Zoning Text Amendment) allowing for Freeway Adjacent Digital Display Billboards within the City of Oxnard by amending specific provisions of Article IX of Chapter 16 of the Oxnard City Code, subject to certain findings.

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.

Alexander Nguyen, City Manager; Ashley Golden, Assistant City Manager presented and answered questions. Joe Pearson II, AICP, Planning and Environmental Services Manager was also available to answer questions.

Mayor Zaragoza opened the public testimony portion of the public hearing. Public comments were received from Nancy Lindholm, Hugh McManigal, Mark Spellman, Pat Brown, Spencer Noren and Steve Nash.

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 Perello, to approve the recommended action (OPTION 1) as presented. VOTE: Basua, MacDonald, Madrigal, Perello, and Zaragoza voted in favor; Teran voted against; motion passed 5-1.

6. Community Development Department

SUBJECT: Project Name: RiverPark Boulevard Electronic Billboard Project; Located on an approximately 0.25-acre undeveloped site located between the U.S. 101 and RiverPark Boulevard approximately 850 feet north of Vineyard Avenue in the northern portion of the City of Oxnard (APN: 132-0-311-075) and along the Ventura Freeway (Highway 101) in the RiverPark Specific Plan area. (30 minutes)

RECOMMENDATION: That the City Council:

1. Conduct a public hearing, and

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

Option 1 – Applicants’ Original Request/Staff’s Recommended Action – Allowing the development of a Freeway Adjacent Digital Display Billboard:

- a. Approve **Resolution #15,673** Adopting a Mitigated Negative Declaration (MND) 22-02; and
- b. Introduce **Ordinance #3024** (by title only, waiving further reading) approving Planning and Zoning Permit No. 20-630-02 (Specific Plan Amendment No. 8 to the RiverPark Specific Plan) for text amendments to the RiverPark Specific Plan, subject to certain findings; and
- c. Introduce **Ordinance #3025** (by title only, waiving further reading) approving Planning and Zoning Permit No. 20-670-06 (Development Agreement No. A-8515), subject to certain findings; and
- d. Adopt **Resolution #15,674** Approving Planning and Zoning Permit No. 20-500-07 (Special Use Permit) and overturn the Planning Commission’s Denial, subject to certain

conditions and findings.

Option 2 – Planning Commission Recommendation – Denying the development of a Freeway Adjacent Digital Display Billboard:

- a. Provide direction to City staff to return at a date certain meeting with the appropriate resolutions of denial for Planning and Zoning Permit Nos. 20-630-02 (Specific Plan Amendment No. 8 to the RiverPark Specific Plan), Planning and Zoning Permit No. 20-670-06 (Development Agreement No. A-8515), and Planning and Zoning Permit No. 20-500-07 (Special Use Permit).

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.

A presentation was made by Lars Skugstad from Outfront Foster Interstate Media, Inc., the applicant representative.

Ashley Golden, Assistant City Manager and Joe Pearson II, AICP, Planning and Environmental Services Manager presented and answered questions.

Mayor Zaragoza opened the public testimony portion of the public hearing. Public comments were received from Spencer Noren.

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 Mayor Zaragoza, to approve the recommended action (OPTION 1) as amended by Chief Assistant City Attorney, Kenneth Rozell. VOTE: Basua, MacDonald, Madrigal, Perello, and Zaragoza voted in favor; Teran voted against; motion passed 5-1.

7. **Community Development Department**

SUBJECT: Project Name: Ventura Road Electronic Billboard Project; Located on an approximately 1,000-square foot undeveloped site located on the north side of the U.S. 101 and immediately west of Ventura Road in the northern portion of the City of Oxnard. APN: N/A and along the Ventura Freeway (Highway 101) in The RiverPark Specific Plan area. (30 minutes)

RECOMMENDATION: That the City Council:

1. Conduct a public hearing, and

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

Option 1 – Applicants’ Original Request/Staff’s Recommended Action – Allowing the development of a Freeway Adjacent Digital Display Billboard:

- a. Approve **Resolution #15,675** Adopting a Mitigated Negative Declaration (MND) 22-02; and
- b. Approve Resolution **#15,676** Adopting a Mitigated Negative Declaration (MND) 22-03; and
- c. Introduce **Ordinance #3026** (by title only, waiving further reading) approving Planning and Zoning Permit No. 20-630-02 (Specific Plan Amendment No. 8 to the RiverPark Specific Plan) for text amendments to the RiverPark Specific Plan, subject to certain findings; and
- d. Introduce **Ordinance #3027** (by title only, waiving further reading) approving Planning and Zoning Permit No. 20-670-05 (Development Agreement No. A-8516), subject to certain findings; and
- e. Adopt **Resolution #15,677** Approving Planning and Zoning Permit No. 20-500-06 (Special Use Permit) and overturning the Planning Commission’s Denial, subject to certain conditions and findings.
- f. Adopt **Resolution #15,678** declaring its intention to vacate its right, title and interest in an approximately 1,000-square foot undeveloped site located on the north side of the U.S. 101 and immediately west of Ventura Road in the northern portion of the City of Oxnard and direct the City Clerk to schedule a public hearing in accordance with the vacation procedures contained in California Streets and Highway Code Section 8300 et seq to be held on Tuesday April 18, 2023 at 6:00 p.m. at the at the City Council Chambers of the City of Oxnard located at 305 West Third Street in Oxnard, California.

Option 2 – Planning Commission Recommendation – Denying the development of a Freeway Adjacent Digital Display Billboard:

- a. Provide direction to City staff to return at a date certain meeting with the appropriate resolutions of denial for Planning and Zoning Permit Nos. 20-630-02 (Specific Plan Amendment No. 8 to the RiverPark Specific Plan), Planning and Zoning Permit No. 20-670-05 (Development Agreement No. A-8516), Planning and Zoning Permit No. 20-500-06 (Special Use Permit), and Planning and Zoning Permit No. 21-660-03 (Street Vacation).

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.

A presentation was made by Lars Skugstad from Outfront Foster Interstate Media, Inc., the applicant representative.

Ashley Golden, Assistant City Manager and Joe Pearson II, AICP, Planning and Environmental Services Manager presented and answered questions.

Mayor Zaragoza opened the public testimony portion of the public hearing. Public comments were received from Spencer Noren.

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 Perello, seconded by Mayor Zaragoza, to approve the recommended action (OPTION 1) as amended by Chief Assistant City Attorney, Kenneth Rozell. VOTE: Basua, MacDonald, Madrigal, Perello, and Zaragoza voted in favor; Teran voted against; motion passed 5-1.

N. REPORTS

1. Community Development Department

SUBJECT: City of Oxnard 2022 General Plan Annual Progress Report. (10 minutes)

RECOMMENDATION: That the Oxnard City Council receive and file the City of Oxnard 2022 General Plan and Housing Element Annual Progress Report.

(This item did not originate in Committee.)

Ashley Golden, Assistant City Manager presented the item. Joe Pearson II, AICP, Planning and Environmental and Kathleen Mallory, Planning & Sustainability Manager answered questions. Public comments were received from Ray Blattel. The report was received and filed, no formal action was required.

2. Finance Department

SUBJECT: FY 2022-23 Budget Mid-Year Review. (20 minutes)

RECOMMENDATION: That the City Council:

1. Receive an update on the FY 2022-23 revenue and expenditure projections for major funds,
2. Recommend the City Council approve a budget appropriation request in the amount of \$430,000 to General Fund (101) for the Fire Department and \$533,218 to Golf Course Fund (651) for a total appropriation of \$963,218; and
3. Adopt **Resolution #15,679** approving amendments to the Position Control Resolution.

(This item did not originate in a committee.)

Denise Olson, Interim Chief Financial Officer and Steve Howlett, Assistant Public Works Director presented and answered questions. Public comments were received from Ray Blattel. Discussion ensued among the Council and staff.

It was moved by Mayor Pro Tem MacDonald, seconded by Councilmember Perello, to approve the recommended action as presented. VOTE: Basua, MacDonald, Madrigal, Perello, Teran, and Zaragoza voted in favor; motion passed 6-0.

3. Fire Department

SUBJECT: Authorization to Submit a Grant Application to Federal Emergency Management Agency (FEMA) Fire Prevention and Safety (FP&S) Grant not to exceed \$350,000 for the Purchase and Installation of Smoke and Carbon Monoxide Detectors. (20 minutes)

RECOMMENDATION: That the City Council adopt **Resolution #15,680** authorizing:

1. The submission of a grant application to the Federal Emergency Management Agency (FEMA) Fire Prevention and Safety (FP&S) not to exceed \$350,000 for the purchase and installation of smoke and carbon monoxide detectors with a 5% local match;
2. The City Manager or designee to execute the grant agreements if grant funds are awarded to the City;
3. The Chief Financial Officer or designee to submit financial reports and grant claims, approve budget appropriations during FY2023-2024 for the use of grant funds and perform all other required financial actions; and
4. The Fire Chief or designee to submit non-financial reports.

Alexander Hamilton, Fire Chief presented and answered questions. No public comments were received. Discussion ensued among the Council and staff.

It was moved by Mayor Pro Tem MacDonald, seconded by Councilmember Basua, to approve the recommended action as presented. VOTE: Basua, MacDonald, Madrigal, Perello, Teran, and Zaragoza voted in favor; motion passed 6-0.

4. City Manager Department

SUBJECT: Risk to the ERP Project related to Aaron Starr Lawsuit preventing City from Obtaining Council-Approved Bonds; Fifth Amendment to Project Management Contract; and Annual Report. (10 minutes)

RECOMMENDATION: That the City Council:

1. Approve using up to \$2,500,000 from Fiscal Year 2022-23 General Fund to cash fund the portion of all FY 2022-23 Enterprise Resource Planning (ERP) project expenditures in excess of the initial bond proceeds received in prior fiscal years (with additional FY 2023-24 General Fund as listed in budget to cash fund the FY 2023-24 ERP project expenditures if litigation remains pending that prevents City from issuing bonds); and

2. Approve and authorize the Mayor to execute a Fifth Amendment to the Professional Services Agreement with Kreative Core Technologies Corp (9431-21-FN) in the amount of \$2,120,000 for a new not to exceed contract amount of \$4,720,000 and to extend the term from December 31, 2023, to December 31, 2024, for Project Management Services related to the Human Capital Management (HCM), Energov, Enterprise Asset Management (EAM), and Utility Billing phases of the City's multi-year Enterprise Resource Planning (ERP) implementation; and
3. Receive and file the ERP system annual report.

Mark Sewell, Assistant Chief Financial Officer presented and answered questions. Public comments were received from Pat Brown. Discussion ensued among the Council and staff.

It was moved by Mayor Pro Tem MacDonald, seconded by Councilmember Teran, to approve the recommended action as presented. VOTE: Basua, MacDonald, Madrigal, Perello, Teran, and Zaragoza voted in favor; motion passed 6-0.

O. ADJOURNMENT

There being no further business on the agenda, and without objection, Mayor Zaragoza adjourned the meeting at 9:56 p.m.

ROSE CHAPARRO

City Clerk

JOHN C. ZARAGOZA

Mayor



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

DATE: May 2, 2023
TO: City Council
FROM: Jason Benites, Police Chief, (805) 385-7624, jason.benites@oxnardpd.org
SUBJECT: Resolution Commending Marc Amon for over Twenty-Seven Years of Service to the City of Oxnard.

RECOMMENDATION

That the City Council adopt a resolution commending Marc Amon for over twenty-seven years of service to the City of Oxnard Police Department.

BACKGROUND

On March 20, 2023, Commander Marc Amon retired after over twenty-seven years of outstanding service to the City of Oxnard as a member of the Oxnard Police Department.

Commander Amon began his law enforcement career in 1996 when he graduated from the Ventura County Criminal Justice Training Center, where his passion for public service was ignited. Marc Amon has served the community of Oxnard honorably and with distinction in his advancement to Police Commander in 2020.

Throughout his career, Commander Amon held a wide variety of assignments within the Oxnard Police Department, including Patrol Officer, Field Training Officer, Special Enforcement Unit, Hostage Negotiation Team, Trauma Support Team, Central Business District Officer, Beat Coordinator, Personnel and Training Sergeant, Crime Reduction Unit Sergeant, Patrol Watch Commander and Patrol Support Commander.

Commander Amon has been a champion for growth and continuously found ways for the Oxnard Police Department to grow in size and efficiency. In his time with the Personnel and Training Unit, he led his team to hire 71 police officers and numerous professional staff members over a three-year period. In 2013, he began researching body-worn camera technology and by 2016 he helped the Department start the largest BWC program in Ventura County. In 2017, he was selected to lead the implementation of the Intelligence-Led Policing model through the formation of the Crime Reduction Unit (CRU). The CRU implemented new investigative technology that increased efficiency in creating actionable intelligence and hot spot policing. The CRU also developed the Prolific Offender Program in 2018. Shortly after, the Ventura County District Attorney's Office formed the Intelligence-Driven Prosecution Unit specifically for the vertical prosecution of identified Prolific Offenders. Under Commander Amon's leadership, the Crime Reduction Unit was given the Chief's Award of Excellence in 2019 for these achievements.

We extend our best wishes to Commander Amon on his retirement.

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: Nellie Estrada, Administrative Assistant

ATTACHMENTS

1. Marc Amon Resolution

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD
COMMENDING MARC AMON FOR OVER TWENTY-SEVEN YEARS OF
OUTSTANDING SERVICE TO THE CITY OF OXNARD

WHEREAS, Marc Amon has given over twenty-seven years of outstanding service to the City of Oxnard as a member of the Oxnard Police Department; and

WHEREAS, Marc Amon began his law enforcement career with the City of Oxnard on January 2, 1996, after he graduated from the Ventura County Criminal Justice Training Center (Police Academy) where his passion for public service was ignited. Marc Amon has served the community of Oxnard honorably and with distinction in his advancement to Police Commander in 2020; and

WHEREAS, throughout his career, Commander Marc Amon held a wide variety of assignments within the Oxnard Police Department, including Patrol Officer, Field Training Officer, Special Enforcement Unit, Hostage Negotiation Team, Trauma Support Team, Central Business District Officer, Beat Coordinator, Personnel and Training Sergeant, Crime Reduction Unit Sergeant, Patrol Watch Commander and Patrol Support Commander; and

WHEREAS, Commander Marc Amon has been a champion for growth and continuously found ways for the Oxnard Police Department to grow in size and efficiency. In his time with the Personnel and Training Unit, he led his team to hiring 71 police officers and numerous professional staff members over a three-year period. In 2013, he began researching body-worn camera technology and by 2016, he helped the Department start the largest BWC program in Ventura County. In 2017, he was selected to lead the implementation of the Intelligence-Led Policing model through the formation of the Crime Reduction Unit (CRU). The CRU implemented new investigative technology that increased efficiency in creating actionable intelligence and hot spot policing. The CRU also developed the Prolific Offender Program in 2018. Shortly after, the Ventura County District Attorney's Office formed the Intelligence-Driven Prosecution Unit specifically for the vertical prosecution of identified Prolific Offenders. Under Commander Amon's leadership, the Crime Reduction Unit was given the Chief's Award of Excellence in 2019 for these achievements; and

WHEREAS, Commander Amon's positive interactions have earned the respect of his fellow Officers, City employees and the community. He has developed countless friendships and partnerships within our County, State and City; and

NOW, THEREFORE, the City Council of the City of Oxnard resolves to commend, recognize, and extend its gratitude to Commander Marc Amon for over twenty-seven years of dedicated service to the City of Oxnard. We extend our best wishes for a fun and fulfilling retirement with family and friends.

PASSED AND ADOPTED THIS 2nd day of May 2023, 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



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

DATE: May 2, 2023
TO: City Council
FROM: Jason Benites, Police Chief, (805) 385-7624, jason.benites@oxnardpd.org
SUBJECT: Motorola Solutions Handheld Radio Purchase.

RECOMMENDATION

That the City Council approve and authorize the execution of a purchase order with Motorola Solutions in the amount of \$374,941.10 for the purchase of 67 Motorola APX-8000 portable radios.

BACKGROUND

Uniformed personnel with the Oxnard Police Department ("Department") communicate with each other and our Emergency Communications Center when they are conducting field activity via portable (or "handheld") emergency radios. With over two-hundred and fifty (250) personnel assigned a handheld radio, they are an integral part of the Department's Emergency Communications system. A vast majority of the Department's current inventory of handheld radios are Motorola HT1250's. These radios were purchased in the late 1990's and have a prescribed life expectancy of 8-10 years. The ability to repair them or find replacement parts has become problematic, as they are obsolete.

The Department began a slow and methodical tiered replacement plan several years ago using limited Edward Byrne Memorial Justice Assistant Grant (JAG) funds each year. As such, the limited amount of funding from this grant program only allowed for the purchase of a handful of radios at a time. It is imperative for effective public safety communications that the Department accelerates the plan to replace all of the Department's handheld radios. The Motorola radios that are being purchased as part of the replacement plan are Model APX-8000's that are "dual-banded" for both analog and digital frequencies. This means when the City transitions to a digital radio system, these handheld radios will also be compatible with a new system without any additional cost.

Pursuant to the City of Oxnard Ordinance Number 2943, adopted June 19, 2018, the use of a "cooperative agreement", whereby multiple government agencies, cooperative entities, or jurisdictions enter into a contract to procure from each other or to collectively procure a vendor, contractor or consultant is permitted. The city of Oxnard will be procuring radio equipment under the terms and conditions of the Houson-Galveston Area RA05-21 Contract, valid August 1, 2021, through July 31, 2023, with a second-quarter customer loyalty discount incentive of 50% off radios and 25% off accessories. Due to the timing of Motorola's discount offer, this item is being brought directly to the City Council in order to be able to encumber FY 22-23 funds on time.

Motorola Solutions is the only Motorola channel partner authorized to sell the City of Oxnard Tier One Radio products.

STRATEGIC PRIORITIES

This agenda item supports Public Safety strategy. The purpose of the Public Safety strategy is to restore and modernize the delivery of public safety services to provide for the safety of our neighborhoods and health of our community.

FINANCIAL IMPACT

There are sufficient funds in the FY 22-23 Police operating budget under 1012111-56040 Capital Expenditures (Machinery & Equipment).

For Finance Use Only: General Fund (Org. 1012111, Obj. 56040)

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Gaye Lynn Ward, Police Communications Manager

ATTACHMENTS

1. 12300570 Motorola NSS Quote

Purchasing Department
Purchasing Procedure

Negotiated Contract
Sole/Single (NSS Form)

Purchasing requires written justification from the requesting department within the department explaining why this is the only source for the requirement. Please check the applicable box.

Definition

- ☐ **Negotiated Contract:** When no bids or no responsive bids are received/obtained, the purchasing manager is authorized to negotiate for written proposals without a formal solicitation process for a city contract.
- ☐ **Formal/informal solicitation with one bid/proposal response received (Bid # _____ Close date _____)**
- ☐ **Cooperative Procurement/Piggy-Back Agreement**
- ☒ **Sole Source:** Unique materials, supplies, equipment or services, which can be obtained from only one known source, proprietary equipment/technology, copyright, singular characteristics or performance capabilities or which have exclusive compatibility components with existing City products.
- ☐ **Single Source:** A procurement decision whereby purchases are directed to one source because of standardization, warranty, or other factors, even though other competitive sources may be available.
- ☐ **Urgent:** Informal or formal solicitations for supplies, equipment or services (except Public Projects) shall not apply in a situation in which, at the City Manager's discretion, does not permit obtaining price quotations or bids and public interest and necessity demand the immediate expenditure of public money to avoid harm to or safeguard life, health or property or to mitigate severe economic expenses. Provide the supporting documentation with a completed NSS form to the Purchasing Division of the urgent products/services with the City Manager's signature.

WRITTEN JUSTIFICATION

The below information is provided in support of my Department requesting approval for a negotiated sole/single source (NSS form). *(Outside of a duly declared emergency, the time to develop a statement of work or specifications is not in itself justification for sole source.)*

1. Vendor Legal Business Name & Vendor: # **Motorola Solutions, Inc**
2. Unique features of the supply/service being requested from this supplier, which no alternative supplier can provide to include: (Please check one or more of the options below)
 - ☐ **Unique:** e.g. Feature(s) that make the item/service unique and why you need this uniqueness.
 - ☐ **Compatibility:** e.g. Compatibility with or component of, an existing item; provide enough detail to demonstrate that compatibility is necessary.
 - ☐ **Territory:** Provide a letter from the Manufacturer that its' supplier/reseller holds a service contract and must supply parts to accomplish a contract.
 - ☐ **Emergency order:** No other supplier available at the time. (Must be declared by the City Manager/City Council).
 - ☐ **Urgent:** City Manager approves waiving the formal competitive solicitation, over \$200,000
 - ☒ **Proprietary purchase:** No other supplier available. Provide verified evidence that the purchasing is truly proprietary. I.E. letter from manufacturer that their product is proprietary and that no other product on the open market exists.
 - ☐ **Cooperative Agreement:** Multi-State agreements for supplies and services available for use by State and local Government agencies. **Please state source/contract # _____**
3. The basis upon which the price/cost was determined to be fair and reasonable. The price justification to include: (Please check one or more of the options below)
 - ☐ Comparison to product catalog.
 - ☒ Comparison to similar product/service.
 - ☐ Published price lists.
 - ☐ Prices quoted are less than or equal to, that quoted to other governmental agencies.
 - ☐ Records of previously bid items that were similar.
 - ☐ Proven industry standard.



Purchasing Department
Purchasing Procedure

Negotiated Contract
Sole/Single (NSS Form)

4. Please provide a written explanation of justification for this product/service below:

Oxnard Police purchased 102 of Motorola APX 8000 radios in 2021. The decision was made with the Chiefs to stay consistent and add more of the APX8000 radios for the remainder of Patrol, CSOs, TSA's, and Animal Control.

5. Identify costs for this requested purchase:

One-Time Costs:	374941.10
Ongoing Costs:	
Total Not to Exceed Cost:	

6. Period of Performance:

From:		To:		Or One-Time Purchase	☒
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I HEREBY CERTIFY THAT:

- 1) I am an approved department representative, and am aware of the City's requirements for competitive bidding, as well as, the criteria for justification for negotiated contract/sole/single source purchase.
- 2) There is justification for a negotiated contract/sole/single source purchase noted above as it meets the City's criteria.
- 3) By approving in Munis, I hereby certify the above is true and correct.

Department: Police

Requestor Name (Print Name): Gaye Lynn Ward



Motorola Solutions, Inc.
10680 Treena St., Suite 200
San Diego, CA 92131

March 23, 2023

Gaye Lynn Ward
City of Oxnard

Subject: Motorola Solutions Sole Source- APX Radios (Subscribers)

Dear Mrs. Ward:

Motorola Solutions, Inc. ("Motorola") is the market leader in radio communications systems and products for the U.S. Government and Public Safety Market and is pleased to have the City of Oxnard, CA as a valued customer. The ASTRO25 radio subscribers we design and manufacture contain proprietary hardware and software components, which are not commercially available except through Motorola and its channel partners.

The Motorola Radio Equipment and Options that will be purchased by the City of Oxnard can be used on their existing Motorola Conventional Analog System. These radios will operate on their Conventional Analog System that has proprietary Motorola features. Additionally, they are configured to operate on a Motorola Conventional Astro Digital radio system in anticipation of future radio system infrastructure upgrades in the City of Oxnard.

Furthermore, authorized warranty, maintenance and support for Motorola hardware products are provided by Motorola and its network of authorized and trained service providers. Motorola maintains a parts and accessories inventory sufficient to support its warranty, maintenance and support services obligations. These parts and accessories are manufactured either by Motorola or for Motorola subject to Motorola's specifications and other requirements. If you have any questions regarding our radio equipment, please contact your Account Executive, Mark Streker, at 805-249-8391.

Sincerely,

Motorola Solutions, Inc.
Mark Streker
Sr. Account Executive

101-2111-56040
#3363 Motorola Solutions



OXNARD POLICE DEPT, CITY OF

(67) APX 8000

02/02/2023

02/02/2023

OXNARD POLICE DEPT, CITY OF
305 W THIRD ST
OXNARD, CA 93030

RE: Motorola Quote for (67) APX 8000
Dear Gaye Lynn Ward,

Motorola Solutions is pleased to present OXNARD POLICE DEPT, CITY OF with this quote for quality communications equipment and services. The development of this quote provided us the opportunity to evaluate your requirements and propose a solution to best fulfill your communications needs.

This information is provided to assist you in your evaluation process. Our goal is to provide OXNARD POLICE DEPT, CITY OF with the best products and services available in the communications industry. Please direct any questions to Mark Streker at mark.streker@motorolasolutions.com.

We thank you for the opportunity to provide you with premier communications and look forward to your review and feedback regarding this quote.

Sincerely,

Mark Streker
Sr. Account Executive

Billing Address:
OXNARD POLICE DEPT, CITY
OF
305 W THIRD ST
OXNARD, CA 93030
US

Quote Date:02/02/2023
Expiration Date:04/30/2023
Quote Created By:
Mark Streker
Sr. Account Executive
mark.streker@
motorolasolutions.com
8052498391

End Customer:
OXNARD POLICE DEPT, CITY OF
Gaye Lynn Ward
gaye.lynn.ward@oxnardpd.org
+18053857740

Contract: So. Cal

Line #	Item Number	Description	Qty	List Price	Sale Price	Ext. Sale Price
	APX™ 8000 Series	APX8000				
1	H91TGD9PW7AN	APX 8000 ALL BAND PORTABLE MODEL 3.5	67	\$7,475.00	\$3,737.50	\$250,412.50
1a	Q806CB	ADD: ASTRO DIGITAL CAI OPERATION	67	\$567.00	\$283.50	\$18,994.50
1b	H35BT	ADD: CONVENTIONAL OPERATION	67	\$880.00	\$440.00	\$29,480.00
1c	QA05509AA	DEL: DELETE UHF BAND	67	-\$800.00	-\$400.00	-\$26,800.00
1d	H869BW	ENH: MULTIKEY	67	\$363.00	\$181.50	\$12,160.50
1e	Q629AH	ENH: AES ENCRYPTION AND ADP	67	\$523.00	\$261.50	\$17,520.50
1f	HA00690AA	ADD: 7Y ESSENTIAL SERVICE HTP	67	\$386.00	\$386.00	\$25,862.00
2	NNTN8860A	CHARGER, SINGLE-UNIT, IMPRES 2, 3A, 115VAC, US/NA	67	\$169.56	\$127.17	\$8,520.39
3	PMMN4099CL	AUDIO ACCESSORY- REMOTE SPEAKER MICROPHONE,IP68 REMOTE SPEAKER MICROPHONE,3.5MM,UL	48	\$142.56	\$106.92	\$5,132.16



Any sales transaction following Motorola's quote is based on and subject to the terms and conditions of the valid and executed written contract between Customer and Motorola (the "Underlying Agreement") that authorizes Customer to purchase equipment and/or services or license software (collectively "Products"). If no Underlying Agreement exists between Motorola and Customer, the Motorola's Standard Terms of Use and Motorola's Standard Terms and Conditions of Sales and Supply shall govern the purchase of the Products.
Motorola Solutions, Inc.: 500 West Monroe, United States - 60661 - #: 36-1115800



Line #	Item Number	Description	Qty	List Price	Sale Price	Ext. Sale Price
4	HLN6875A	BELT CLIP 3 INCH	100	\$14.04	\$10.53	\$1,053.00
5	PMLN7903A	CARRY ACCESSORY- CASE,APX6000 CC 3 FIX BL TIA BATTERY	45	\$72.36	\$54.27	\$2,442.15
6	NAR6594A	ANT VHF / 7/800/GPS	10	\$81.00	\$60.75	\$607.50

Subtotal \$345,385.20

Estimated Tax \$29,555.90

Grand Total **\$374,941.10(USD)**

Notes:



Any sales transaction following Motorola's quote is based on and subject to the terms and conditions of the valid and executed written contract between Customer and Motorola (the "Underlying Agreement") that authorizes Customer to purchase equipment and/or services or license software (collectively "Products"). If no Underlying Agreement exists between Motorola and Customer, then Motorola's Standard Terms of Use and Motorola's Standard Terms and Conditions of Sales and Supply shall govern the purchase of the Products.
Motorola Solutions, Inc.: 500 West Monroe, United States - 60661 - #: 36-1115800



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

DATE: May 2, 2023

TO: City Council

FROM: Helen Miller, Chief Information Officer, (805)385-7446, helen.miller@oxnard.org

SUBJECT: First Amendment to IT Transformation Plan Execution Strategy & Roadmap Agreement #32300240 with Avasant LLC.

RECOMMENDATION

That City Council approve and the Mayor execute a first amendment to Avasant LLC professional services agreement #32300240 for information technology consulting services for an additional \$130,375 resulting in a revised not-to-exceed total cost of \$279,375 for the completion of an IT transformation plan execution strategy and roadmap on or before June 30, 2023.

(As of the date of this City Council agenda being posted, there is not yet an outcome from the April 28, 2022 Finance and Governance Committee.)

BACKGROUND

On January 31, 2023, the City executed professional services agreement number 32300240 for a not-to-exceed amount of \$149,000 with Avasant LLC, a technology management consulting services company, for an eight-week information technology (IT) strategy and sourcing study. The objective of the study is to develop a strategy and roadmap to guide execution of the City's IT transformation and operating model plans.

The City is facing challenges in fulfilling evolving IT needs based solely on an internal staffing approach. The envisioned execution strategy will help the City identify the optimal sourcing approach to execute each element of the transformation plan and operating model including the use of software as a service (SaaS) and cloud-based solutions, third-party managed services, contractors to support short-term initiatives and City employees to support high-value plan elements. The execution roadmap will identify the dependencies for migrating to the identified solutions, and provide the specific short, intermediate, and long-term actions required to achieve the City's business-technology and digital transformation objectives.

Avasant's provided engagement approach consists of the following key advisory elements:

- Document and confirm key business and IT drivers and the IT transformation and operating model objectives and vision
- Document and confirm current state IT environment gaps and risks that should be addressed in the execution strategy and roadmap
- Provide future state options to optimize the City's sourcing framework for each transformation and operating model element, and build a consensus for future direction
- Define an IT Transformation Plan Execution Strategy and Roadmap

The eight-week engagement kicked off on February 1, 2023, and was scheduled to be completed by March 22, 2023; however, the City and Avasant determined that an additional five weeks are required to complete the study. The

extension of time is attributed to the need for additional time for staff investigation and collection of information vital to Avasant's scope primarily due to the City's long practiced decentralized versus centralized IT model coupled with an IT staffing shortage as reflected by IT's 62% vacancy rate.

The additional five-week extension cost is \$93,125. IT is recommending an additional two-week contingency for a total seven-week cost of \$130,375 resulting in a revised not-to-exceed agreement total of \$279,375 for a completion date of on or before June 30, 2023. The additional funding covers completion of data collection, current state assessment, target systems environment and operating model, technology market scan, financial model, and strategy with roadmap.

STRATEGIC PRIORITIES

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

FINANCIAL IMPACT

The additional cost for this one-time study is included in IT's current fiscal year, FY22-23, operational budget. No further allocations are required in future fiscal years.

COMMITTEE OUTCOME

As of the date of this City Council agenda being posted, there is not yet an outcome from the April 28, 2022 Finance and Governance Committee. Staff is available to answer any questions.

Prepared by: Helen Miller, Chief Information Officer

ATTACHMENTS

1. Avasant First Amendment 32300240
2. Avasant Agreement 32300240
3. Presentation -City Council 5-2-2023 L4 Avasant

**FIRST AMENDMENT TO
PROFESSIONAL SERVICES AGREEMENT**

This First Amendment (“Amendment”) to the Professional Services Agreement (“Agreement”) is made and entered into in the County of Ventura, State of California, this 10th day of April 2023, by and between the City of Oxnard, a municipal corporation (“City”), and Avasant Inc. (“Avasant” or “Vendor”). This First Amendment amends the Agreement entered into on January 15, 2023, by City and Vendor.

City and Vendor agree as follows:

1. The service period outlined in the Project Timeline & Professional Fees section of the Agreement is extended by an additional five week period to complete the assessment plus an additional maximum two week contingency period.
2. The professional fees will be calculated at the same discounted weekly fee of \$18,625 per Project Week, which is defined as a seven-day block of time. For example, if the work begins on a Wednesday, each Wednesday to Tuesday period will be one Project Week. All work performed during any Project Week or a fraction thereof will incur a charge of an entire Project Week, except for the final Project Week, as noted in this paragraph. As it relates to this Amendment, for the final Project Week, Vendor shall invoice the City on a daily pro-rated basis for actual time spent, based on the previously established weekly rate as set forth above.
3. Except as stated in Paragraph 2 above, Vendor will bill City the weekly fee for each incremental Project Week where Avasant performs work for this project. Unused weeks will not be billed.
4. The previous not to exceed amount of this agreement is increased by an additional \$130,375 to a total of \$279,375.
5. The parties agree that this Agreement may be transmitted and signed by electronic signature by either/any or both/all parties, and that such signatures shall have the same force and effect as original signatures, in accordance with California Government Code section 16.5 and Civil Code section 1633.7.
6. As so amended, the Agreement remains in full force and effect.

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

CITY OF OXNARD

AVASANT, INC

☐ John C. Zaragoza, Mayor Date
☐ Alexander Nguyen, City Manager
☐ Jennifer Yates, Purchasing Manager

Henry Guapo, Partner Date

Ravi Mahalingam, Partner Date

APPROVED AS TO FORM:

Stephen M. Fischer, City Date
Attorney

Project Change Request

Date of Request: 3/15/23

Client: City of Oxnard

Agreement No.: 32300240

Services: CONSULTING ENGAGEMENT FOR IT STRATEGY AND SOURCING, dated 1/31/2023

Requestor: David Gallup, Director & Project Manager, Avasant (Consultant)

Change Request Description: Based on the terms of the Agreement as shown below, Avasant is requesting a fees extension for an additional 7 weeks of time required to complete the scope of work as defined in the initial Scope of Services Exhibit to the above-referenced Agreement. The additionally sought fees are based on 7 weeks of time, at the weekly discounted rate of \$18,625 per week.

This Change Request seeks an additional \$130,675 to the Total Agreement Amount of the Agreement, which represents Consultant's best estimate as to the amount of time required to complete the Tasks enumerated in the Agreement, given the current status of the project.

With the exception of the final Project Week, for all weeks after the initial 8 weeks that were estimated for this project, Consultant will charge the City of Oxnard on a weekly basis at the above-referenced rate, until the project is completed, but in no case to exceed the amount of the initial Agreement fees plus the extension fees sought through this Project Change Request. Consultant will only charge and invoice the City of Oxnard for the number of weeks required to complete the project; i.e. although seven weeks of additional time is being added with this amendment, Avasant will not charge the City for unused weeks 6 and 7 if the project concludes at any time within week 5.

Project Timeline & Professional Fees – Phase 1

Task	Weeks	1	2	3	4	5	6	7	8	9	10
1.1 Program Planning and Kickoff											
1.2 Data Collection and Interviews											
1.3 Current State Assessment											
1.4 Financial Model											
1.5 Scenario Analysis											
1.6 Market Scan											
1.7 Strategy & Roadmap											

Engagement Description	Estimated Duration	Std Rate per week	Discounted Rate	Fees
IT Transformation Plan Execution Strategy and Roadmap	8 weeks	\$35,000	\$18,625	\$149,000

Pricing Terms
- Avasant team will willing to travel as required - Client will be billed separately for all travel and expenses per client policies at actuals if travel is required - Pricing is exclusive of applicable taxes (VAT etc.) - Avasant will invoice monthly. The durations stated above are estimates and may change based on the actual scope of work and agreed project plan - Avasant's preferred payment term is within 30 days of invoice submission - Any client-approved extensions will be charged at the Preferred Client Discounted Rate - Client may suspend or terminate the engagement with 2 weeks' notice

**AGREEMENT FOR PROFESSIONAL SERVICES
COVER PAGE**

- (1) Agreement Start Date: 01/15/2023
- (2) Consultant: Avasant, Inc
- (3) Services: CONSULTING ENGAGEMENT FOR IT STRATEGY AND SOURCING
- (4) Schedule of Services: ESTIMATED 8 WEEK ENGAGEMENT TIMELINE
- (5) Agreement Ending Date: 6/30/2023
- (6) Total Agreement Amount: \$149,000
- (7) City's Project Manager: Helen Miller, Chief Information Officer
- (8) Consultant's Project Manager: Henry Guapo, Managing Partner
- (9) Insurance Coverage: INS-A
- (10) Addresses for Notice:

FOR CONSULTANT:

Avasant LLC
1960 E Grand Ave, Suite 1050
El Segundo, CA 90245

Attn: Henry Guapo

FOR CITY:

City of Oxnard
300 W. 3rd Street, Suite 200
Oxnard, CA 93030

Attn: Helen Miller

- (11) Contact Emails:

*CONSULTANT'S PROJECT
MANAGER:*

henry.guapo@avasant.com

CITY'S PROJECT MANAGER:

helen.miller@oxnard.org

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

- ☐ Scope of Services Exhibit
- ☐ Rates and Costs Exhibit
- ☐ Insurance Exhibit (INS-A)
- ☐ Travel Reimbursement Exhibit

AGREEMENT FOR PROFESSIONAL SERVICES

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

1. Scope of Services. Consultant shall provide to City the services listed as "(3) Services" on the Cover Page (the "Services"). Consultant shall provide the Services during the term of this Agreement, as set forth below, according to the schedule written as "(4) Schedule of Services" on the Cover Page, and as further explained in the Scope of Services Exhibit, which is attached hereto and incorporated herein by this reference. In the event of any conflict between the terms of this Agreement and any incorporated document(s), the terms of this Agreement shall control.
2. Standard of Performance. Consultant shall undertake and complete the Services to conclusion using the standard of care, skill and diligence normally provided by a professional person in the performance of similar consulting services.
3. Correction of Errors. Consultant shall correct, at its expense, all errors which may be disclosed during review of the Services. Should Consultant fail to make such correction in a reasonably timely manner, such correction shall be made by City, and the cost thereof shall be paid by Consultant.
4. Term. This Agreement shall begin on the date that is written as "(1) Agreement Start Date" on the Cover Page and shall end on the date that is written as "(5) Agreement Ending Date" on the Cover Page. Time is of the essence in this Agreement.
5. Compensation. For the Services performed during the term of this Agreement, City shall pay Consultant an amount not to exceed the amount that is listed as "(6) Total Agreement Amount" on the Cover Page, at the rates listed in Rates and Costs Exhibit, attached hereto and incorporated herein by this reference. The rates in Rates and Costs Exhibit shall be in effect through the end of this Agreement. Except as otherwise expressly provided in this Agreement, City shall not be responsible for expenses incurred by Consultant in performing the Services.
6. Invoices. Consultant shall submit a payment request to City by the end of each calendar month listing the Services provided, costs of those Services, and total amount due for the month. Each invoice must also list the current balance on the Agreement, including that invoice, as well as the months remaining on the term of the Agreement. Invoices may be emailed to: invoices@oxnard.org. Except as set forth in a Statement of work, payment of undisputed invoices shall be due within forty-five (45) days from the invoice date.
7. Acceptance of Payment. Consultant's acceptance of final payment made pursuant to this Agreement shall constitute a release of City from all claims and liabilities for compensation to Consultant for anything completed, finished or relating to the Services. City's payment shall not constitute nor be deemed a release of the responsibility and liability of Consultant for the accuracy and competency of the information provided and/or the Services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by Consultant and its employees, agents and subcontractors. Consultant shall provide City with a completed Request for Taxpayer Identification Number and Certification, as issued by the Internal Revenue Service. If any sales tax is due for the Services performed by Consultant or materials or products provided to City by Consultant, Consultant shall pay the sales tax. City shall not reimburse Consultant for sales taxes paid by Consultant.
8. Non-Appropriation of Funds. Payments to be made to Consultant by City for the Services performed within the current fiscal year are within the current fiscal budget and within an available, unexhausted and unencumbered appropriation of City. In the event City does not appropriate sufficient funds for payment of the Services beyond the current fiscal year, this Agreement shall cover payment for the Services only up to the

conclusion of the last fiscal year in which City appropriated sufficient funds and shall automatically terminate at that fiscal year's conclusion.

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

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

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

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

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

14. Hold Harmless, Defense and Indemnity.

If Consultant provides any architectural, landscape architectural, engineering or land surveying ("design professional") services, to the maximum extent permitted by law, Consultant shall hold harmless, defend, and

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

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

a. Each party's total cumulative liability for all claims arising under this Agreement shall be limited to direct damages, and shall not exceed, in the aggregate for all claims, the fees paid or payable to Consultant hereunder. Neither party shall be liable to the other party or any third party for any indirect, special, punitive, incidental or consequential damages arising hereunder (including loss of profits, personal injury or property damage claims), even if such party has been advised of the possibility of such damages. For clarity, the damages limitations set forth in this Section shall not apply to undisputed fees payable hereunder.

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

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

16. Documents and Materials.

a. All final computations, exhibits, files, plans, correspondence, reports, drawings, designs, data, photographs, specifications, information, images, video files, media, or other deliverables prepared, created, drawn, calculated, photographed or developed by Consultant pursuant to this Agreement ("Documents and Materials") shall be the City's property without restriction or limitation upon its use, duplication or dissemination. All Documents and

Materials shall be considered “works made for hire,” and all Documents and Materials and any and all intellectual property rights arising from their creation, including, but not limited to, all copyrights and other proprietary rights, shall be and remain the property of the City without restriction or limitation upon their use, duplication or dissemination by the City. Consultant shall not obtain or attempt to obtain copyright protection as to any Documents and Materials. Consultant hereby assigns to the City all ownership and any and all intellectual property rights to the Documents and Materials that are not otherwise vested in the City pursuant to this Section 16.

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

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

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

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

17. Confidentiality of Information.

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

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

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

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

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

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

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

19. Nondiscriminatory Employment. Consultant shall not unlawfully discriminate against any individual based on race, color, religion or religious creed, national origin, ancestry, ethnic group identification, primary language, physical disability, mental disability, medical condition, genetic information, marital status, gender, gender identity, gender expression, sex, sexual orientation, age, immigration status, citizenship or military and

veteran status. Consultant understands and agrees that it is bound by and will comply with all legal nondiscrimination mandates. For every subcontractor who will perform Services, Consultant shall be responsible for such subcontractor's compliance with this Section 19.

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

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

22. Conflict of Interest. If, in performing the Services set forth in this Agreement, Consultant makes, or participates in, a "governmental decision" as described in Title 2, Section 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. Furthermore, Consultant shall not to accept any employment or representation during the term of this Agreement or within 12 months after completion of the Services which is or may likely make Consultant "financially interested," as provided in California Government Code Sections 1090 and 87100, in any decisions made by City on any matter in connection with which Consultant has been retained pursuant to this Agreement.

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

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

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

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

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

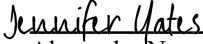
28. Force Majeure. Neither City nor Consultant shall be responsible for delays or failures in performance resulting from acts beyond the control of either party. Such acts shall include but are not be limited to acts of God, riots, acts of war, epidemics, fire, earthquakes, or other disasters.

29. Authority. Any person executing this Agreement on behalf of Consultant warrants and represents that s/he has the authority to execute this Agreement on behalf of Consultant and to bind it to the performance of these obligations.
30. Binding Agreement. The parties do not intend this Agreement to be binding upon them and shall not be held liable to its terms until it is fully executed by all required signers.
31. Integration; Amendment. This Agreement, including any other documents incorporated herein by specific reference, constitutes the entire and integrated agreement of City and Consultant regarding the subject matter described herein. This Agreement supersedes all prior oral or written communications, negotiations, representations, agreements and promises. This Agreement may not be modified or amended, nor any provision or breach waived, except in a writing, signed by both parties, that expressly refers to this Agreement.
32. Construction. In the event of any asserted ambiguity in or dispute regarding the interpretation of any matter herein, the interpretation of this Agreement shall not be resolved by any rules of construction providing for interpretation against the party who causes the uncertainty to exist or who drafted the Agreement in whole or in part.
33. No Waiver. Waiver by either party of any one or more of the conditions of performance under this Agreement shall not be a waiver of any other condition of performance under this Agreement. In no event shall the making by City of any payment to Consultant constitute or be construed as a waiver by City of any breach of covenant, or any default that may then exist on the part of Consultant, and the making of any such payment by City shall in no way impair or prejudice any right or remedy available to City with regard to such breach or default.
34. Attorneys' Fees. The prevailing party shall be entitled to recover reasonable costs, attorneys' fees (including the reasonable value of the services rendered by the City Attorney's Office) and expenses, including investigation fees and expert witness fees, in addition to any other relief to which that party may be entitled, in any legal action or other proceeding, including an action for declaratory relief, for the enforcement of this Agreement or because of an alleged dispute, breach, default or misrepresentation in connection with this Agreement.
35. Notice. Except as otherwise required by law, a notice or communication authorized or required by this Agreement shall be in writing and shall be deemed received—on (a) the day of delivery if delivered by hand or overnight courier service during City's regular business hours or (b) the third business day following deposit in the United States mail, postage prepaid—to the addresses listed as "(10) Addresses for Notice" on the Cover Page or at such other address as one party may notify the other in writing.
36. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall be deemed to be one and the same agreement. A signed copy of this Agreement transmitted by email to Project Managers' emails listed in "(11) Contact Emails" on the Cover Page or by other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement for all purposes.
37. Severability. If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.
38. Electronic Signatures. The parties agree that this Agreement may be transmitted and signed by electronic signature by either/any or both/all parties, and that such signatures shall have the same force and effect as original signatures, in accordance with California Government Code section 16.5 and Civil Code section 1633.7.

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**AVASANT, LLC**

DocuSigned by:

Alexandra Nguyen,¹

City Manager

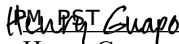
Jennifer Yates

Purchasing Manager

1/31/2023 | 12:07 PM PST

Date

DocuSigned by:

Henry Guapo, Partner²

1/16/2023 | 9:24 AM PST

Date



Ravi Mahalingam, Partner

1/20/2023

Date

ATTEST:

Rose Chaparro, CITY Clerk
(only if Mayor authorizes)

Date

APPROVED AS TO FORM:

DocuSigned by:

Stephen M. Fischer, City
Attorney

1/30/2023 | 11:03 AM PST

Date

¹ The City Council must authorize any agreement over \$200,000 annually. The City Manager may authorize any agreement over \$100,000 up to \$200,000 annually. The Purchasing Agent may authorize any agreement up to \$100,000 annually. All agreements shall be executed by the Purchasing Agent.

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



Avasant Proposal for City of Oxnard

IT Transformation Plan
Execution Strategy and Roadmap

November 17, 2022



Strategic Sourcing

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Introduction & Objectives



- Introduction & Objectives
- About Avasant
- Project Methodology & Approach
- Project Timeline & Professional Fees
- Avasant Research Subscription Offer
- Case Studies & References

Client's Objectives

The City of Oxnard IT leadership is seeking a qualified IT strategy and sourcing advisor to develop a strategy and road map to guide execution of its IT Transformation and Operating Model plans. Like many organizations today, the City is facing challenges in fulfilling evolving IT needs based solely on an internal staffing approach. The envisioned execution strategy will help the City identify the optimal sourcing approach to execute each element of the transformation plan and operating model including the use of SaaS and Cloud based solutions, 3rd party managed services, contractors to support short term initiatives and City employees to support high value plan elements. The execution roadmap will identify the dependencies for migrating to the identified solutions, and provide the specific short, intermediate and long-term actions required to achieve transformation objectives. Avasant has provided an engagement approach consisting of the following key advisory elements:

- 1 Document and confirm key business and IT drivers and the IT transformation and operating model objectives and vision
- 2 Document and confirm current state IT environment gaps and risks that should be addressed in the execution strategy and roadmap
- 3 Provide future state options to optimize the City's sourcing framework for each transformation and operating model element, and build a consensus for the future direction
- 4 Define an IT Transformation Plan Execution Strategy and Roadmap

AVASANT

AVASANT

About Avasant

Introduction
& Objectives

About
Avasant

Project
Methodology &
Approach

Project
Timeline &
Professional
Fees

Avasant
Research
Subscription
Offer

Case Studies
&
References



Management Consulting

Benchmarking & Contracts

Research & Data

Avasant
Foundation

AVASANT

We serve over 250 of the Fortune 1000

AVASANT

Aerospace & Defense

Public Sector

Countries & Non-Profit

Energy & Utilities

Healthcare & Life Sciences

Banking and Insurance

Hi-tech & Telecom

Travel & Transport

Retail & Manufacturing

Media & Entertainment

GENERAL ATOMICS

AIRBUS

Huntington Ingalls Industries

Honeywell

communications

AIR CANADA

IDB

THE WORLD BANK

PLAN INTERNATIONAL

ROCKEFELLER FOUNDATION

JAMPRO

ILIFAD

MEXICOT

PROEXPORT COLOMBIA

ApexBrasil

CALPINE

SOUTHERN CALIFORNIA EDISON

AMERICAN WATER

Pacific Gas and Electric Company

NiSource

Sempra Energy

Piedmont Natural Gas

Alberta Health Services

ALLERGAN

Providence St. Joseph Health

AMGEN

CDPHP

Acelity

PRESBYTERIAN

Intermountain Healthcare

NOVARTIS

NORGES BANK

EQUIFAX

CORNING

SONY

COX

NTT Communications

QUALCOMM

NVIDIA

DIEBOLD

AIR CANADA

AÉROPORTS DE MONTRÉAL

EIA

GTAA

AIRBUS

THE IRVINE COMPANY

BNSF RAILWAY

KBR

TOYOTA

FLUOR

CEMEX

SAINT-GOBAIN

الطائر al tayer

Jack In the box

Kroger

PETSMART

MATTEL

NVIDIA

WILEY

PlayStation

MediaNews Group

SONY PICTURES

AP

SONY MUSIC

Experience in the Public Sector Industry

Our Public Sector practice assists clients with business and technical strategies designed to support new civic digital ecosystems. We analyze issues surrounding:

- Policies
- Compliance
- Security
- Governance

Representative Clients:

PublicPrivate Partnership Commission

CEI-RD

JORDAN

EDMONTON ECONOMIC DEVELOPMENT

Republic of Rwanda

Nubavut

JAMPRO

PROESA

CFI

CSBS

invesTT

Trinidad & Tobago IFC

EDC

NITA

Nicaragua

RisiAlbania

ApexBrasil

BDA

PROEXPORT COLOMBIA

INVEST SVG

the dti

94

Five-Star Rated Global Deal Advisors

Avasant has been rated Top Advisor for 13 years consecutively by the International Association of Outsourcing Professionals



AVASANT

Size and Growth

Customer References

Award and Certifications

Programs for Innovation

Programs for Social Responsibility



“Buyers understand there are hundreds of qualified service providers and advisors out there. We are proud to recognize Avasant for being among the highest rated companies.”
- Debi Hamill, IAOP CEO

Industry Recognition

Forbes

BEST MANAGEMENT CONSULTING FIRM
2018 - 2022



NAMED ONE OF TOP FIVE ANALYST FIRMS 2021 BY IAR



The Global Impact Sourcing Award 2018



TRANSFORMATIONAL SOURCING RELATIONS LEADERSHIP



Committed to Youth Empowerment



25,000+ sustainable jobs created across Africa, Asia, and Latin America



25+ leading ICT employers actively support Avasant Foundation's impact sourcing initiatives



Stevie Award- Women in Business- Gold for transformational sourcing relations leadership



Recognized by the Clinton Global Initiative, for enabling employment of over 94% of deserving youth in Jamaica & Haiti (2015-16)



Influencer for Championing Impact Sourcing



GIRL RISING



AMERICAN INDIA FOUNDATION



United Nations
Global Compact
Leader

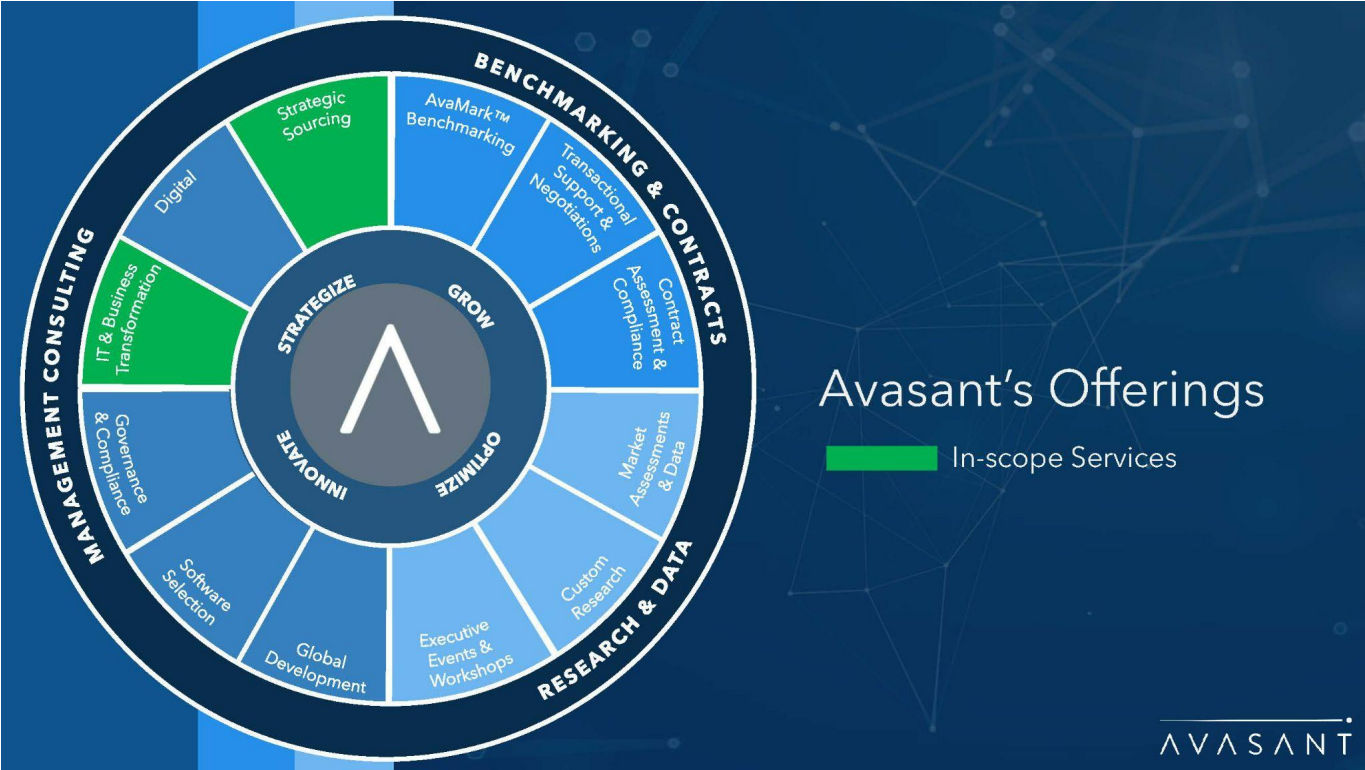


SDG
Philanthropy
Platform



SUSTAINABLE DEVELOPMENT GOALS
17 GOALS TO TRANSFORM OUR WORLD





Management Consulting Services Overview

- Strategic Sourcing**
Optimize IT and Business Process operations through strategic partnerships to achieve core business objectives beyond predictable and low cost services.
- Digital**
Define and execute digital business strategies by structuring and managing the strategic partnerships of the digital ecosystem to create competitive differentiators.
- IT & Business Transformation**
Develop and execute a strategic transformation plan creating a new operating model and technology footprint designed to drive improvement and customer satisfaction.
- Governance & Compliance**
Increase value and accountability across the vendor ecosystem with solutions for managing vendor portfolios, spend and services, and third-party risk.
- Software Selection**
Independent advice for technology acquisition decisions, enterprise software selection and vendor evaluation backed by experience and data.
- Global Development**
Develop economic development strategies and policies to support sustainability and catalyze investment.



Strategic Sourcing

AVASANT

Align strategic relationships to organizational goals

- **Over \$25 Billion** of sourcing deals managed and tracked annually
- **100%** of Avasant brokered service provider/buyer relationships have gone to term, or renewed
- **Over 15,000** Strategic Sourcing engagements across **40+ micro-verticals** covering strategy, benchmarking, RFP support, and contract negotiations



Sourcing Strategy

Roadmap to improve alignment between technology and business.



Sourcing Transaction

Capture vendor's capabilities and ability to integrate with client's transformation goals.



Sourcing Implementation

Retained organization and governance structure to support new transformation environment



Sourcing Governance

Ensure operating model, technologies, and processes are realized and align with business goals.



Sourcing Value Assessment

Diagnose relationships against business requirements and marketplace availability of IT and business process services.



Contract Assessment & Renegotiations

Reassess and realign technology relationships to business and IT needs.

Benchmarking & Contracts and Research & Data Overview



AvaMark™ Benchmarking

Real time market analytics platform for millions of financial and operational datapoints to provide an accurate reflection of current situation as it relates to market realities.



Transactional Support & Negotiations

Strategic legal support services enabling organizations to navigate the complex global regulatory landscape.



Contract Assessment & Compliance

Legal support through the sourcing transaction lifecycle, drafting master agreements, designing performance criteria, pricing methodology, and other schedules.



Market Assessments & Data

Independent assessments which reflects capabilities of providers, evaluating them as partners for digitally evolving global organizations



Custom Research

Focused research on market intelligence, competitive intelligence and thought leadership to provide actionable insights for solving business problems



Executive Events & Workshops

Forums for collaboration between industry leaders and innovators to drive impactful outcomes and solve business challenges

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Our Strategic Offerings are Powered by Analytics

AVASENSE™	AvaMark™	STRATIVA	RADARVIEW™	COMPUTER ECONOMICS	AVASANT GLOBAL EQUATIONS
Vendor Governance & Management Platform - Contract Governance - Performance / SLA tracking - Compliance & Risk Management - Financial Tracking - Organizational Change Management - Deliverable & Obligation Management	Benchmarking Platform - Back office Managed Services Market Price Comparison - Rate Card Benchmarks - ITO and BPO Benchmarks - Cloud Enterprise Agreement Benchmarks - Software License Benchmarks - Operational and TCO Benchmarks	Software and Technology Database - Deal Databases - ERP Platforms - Supply Chain Systems - CRM Platforms - Human Capital Management Systems - Finance & Accounting Platforms - Cloud Storage & Hosting - IT Infrastructure Tools - Procurement Systems	Provider and Market Assessments - Provider Assessments - Provider Risk Profiles - Platform & Tool Assessments - Market Assessments	IT Metrics & Industry Benchmarks - IT Spending and Staffing - Budgets and Spending - Technology Adoption - IT Management Best Practices - Outsourcing Statistics - Equipment Valuations	Location & Digital Competitiveness Index - Digital Country Competitiveness - Business Ecosystem Information - Location Risk Assessment - Investment/ Location Strategy - Profit Center Design - Captive Center Build - Build Operations Transfer Model - Digital SME Development



Unrivalled Experience

- Consultants have an average of 20 years industry expertise
- 2000+ engagements in over 50 countries
- Integrated approach with business, operations and technology skills applied to each engagement



Independent and Unbiased

- Independent advisory firm with no equity or financial obligations with any technology or service providers
- No downstream integration services
- Unbiased recommendations based on the best solution for the client



Innovative & Expert Insights

- Avasant's market research and RadarViews™ provide the latest industry intelligence
- Unique insights into digital trends, platform capabilities and service providers
- Transformation initiatives and key decisions informed by data and analytics

Why Avasant?



Focused on Client Success

- Undersetting of client challenges and opportunities of all sizes ranging from small, medium to large global organizations
- Engagements focused on providing quantifiable value



Relevant and Grounded Approach

- Advisory services delivered in the context of current market trends
- Focus on client success using a highly collaborative approach
- Commitment to understanding client culture



Strategic Partner Network

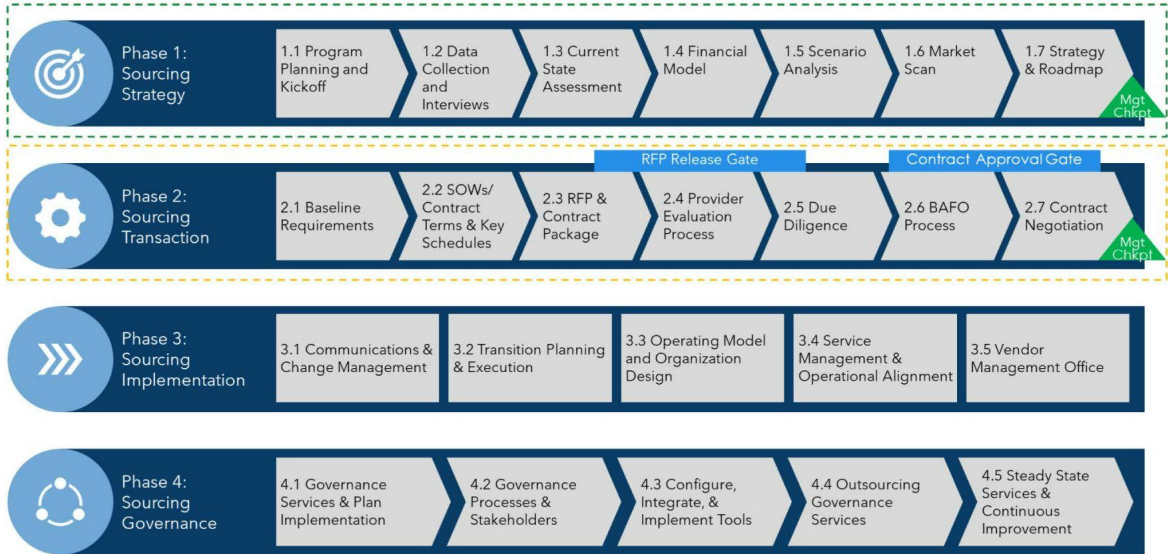
- Extensive network of strategic partners with local presence across all major markets
- Best mix of delivery capabilities to support our clients' strategic initiatives

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Strategic Sourcing Methodology

Avasant has customized its standard Phase 1 Strategic Sourcing Methodology depicted below to provide the City an IT Transformation Plan Execution Strategy and Roadmap.



18 In-scope Potential future scope depending on outcome of Phase 1

Phase 1: Methodology Overview



IT Transformation Plan Execution Strategy and Roadmap							
Tasks	1.1	1.2	1.3	1.4	1.5	1.6	1.7
Task Description	- Conduct Preliminary planning discussions with the project team - Identify key meetings and participants, create detailed project schedule. - Conduct kickoff meeting and review data collection requirements	- Provide data collection requirements and interview guides - Conduct business and IT management interviews - Document key Citywide and department business objectives - Document IT operating model and IT transformation objectives and plans	- Develop a current state assessment based on data collection and interview findings and experience with similar environments - Conduct working session with the project team to identify & prioritize factors to be addressed through the execution plan	- Facilitate cost baseline development and validation with financial SME to fully document all the cost areas contributing to the TCO (Total Cost of Ownership) of the current state - For externally sourced services provide market price guidance	- Identify IT transformation execution models and opportunities for further analysis - Evaluate each scenario with its impact on objectives and drivers, existing environment, risks and one-time and ongoing costs	Provide market research data on potential 3rd parties that can address identified scenario opportunities	- Develop the IT transformation execution strategy including the sourcing model and TCO estimates - Develop an execution roadmap, including timing for dependencies and prerequisites and short, intermediate and long-term execution elements
Avasant Key Deliverables	- Project schedule - Kickoff deck - Weekly status reports	- Data collection requirements - Interview guides - Data collection and interview findings report	- Current State Assessment Report - Future state model priorities	- Cost baseline - Market price guidance for externally sourced execution elements	- Scenario analysis - Recommended scenarios for project team consideration	List of viable 3rd parties that could participate in future RFP processes	IT Transformation Execution Strategy and Roadmap

Phase 1: Step 1 - Program Planning and Kickoff



IT Transformation Plan Execution Strategy and Roadmap							
Task - 1.1.1 Perform Project Planning & Conduct Project Kick-off	1.1 Program Planning and Kickoff	1.2 Data Collection and Interviews	1.3 Current State Assessment	1.4 Financial Model	1.5 Scenario Analysis	1.6 Market Scan	1.7 Strategy & Roadmap
- Conduct preliminary planning discussions with the project team regarding project requirements, scope, data collection requirements, and scheduling - Establish core project team, data collection and environment SMEs, project roles and responsibilities - Identify key meeting and activity dates - Identify interview participants - Develop detailed project schedule - Review data collection requirements and confirm data collection approach - Conduct kick-off meeting with the project team and key stakeholders							
Deliverables							
- Kickoff meeting deck - Interview list - Detailed project schedule - Weekly status report							



Phase 1: Step 1 – Sample Program Planning, Kickoff and Status Reporting Tools

Committee Structure for overall Business Services Optimization program

Roles	EVP F&A	EVP D&OD	EVP S,C&OD	Responsibilities		
Executive Team	Executive Sponsors	Maher Al-Haffar	Luis Hernandez	Juan Romero	• Sponsors and decision makers	
	Program Sponsors	Artemio Salinas	Fausto Sosa (IT)	Alberto de Armas (HR)	Miguel Bistay	• Accountable for overall program
	Project Lead	Eduardo Rendon	Ramiro Marin (IT)	German Alvarado (HR)	Josue Rodriguez	• Overall coordination and point of contact
Management Team	Technical Lead	Eduardo Rendon	Juan Murguía (IT)	German Alvarado (HR)		
	Financial Lead	Eduardo Rendon	Ramiro Marin (IT)	German Alvarado (HR)		
	Contractual Lead	Eduardo Rendon	Ramiro Marin (IT)	German Alvarado (HR)		
	Program Mgmt.	Luciano Martinez	Hector Martinez			
Domain Leaders and Subject Matter Experts	BSO USA	Luciano Martinez	Susi Mejia			
	BSO Mexico	Oscar Elizondo	Francisco Noriega			
	BSO S&C&C	Luis Ali	Carlos Vargas			
	BSO EMEA	Javier Garcia	Pilar Ruiz			
Information Technology	Saul Guzman	Juan Murguía (IT)	Fulgencia Garcia (HR)			

Weekly Status Report Template

1 Project Schedule

2 Key Project Updates

3 Detailed Action Tracker

4 Risk Tracker

5 Calendar View

6 Project Deliverables

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Phase 1: Step 2 - Data Collection and Interviews



Task - 1.2.1 Collect Base Line Environment & Cost Data

- Review the IT environment and baseline cost data collection process and templates with data collection using industry leading Total Cost of Ownership (TCO) model from TBM Institute, including for the following:
 - Infrastructure environment data
 - Application portfolio data
 - Financial baseline data (e.g., labor, hardware, software, third party services)
- Review data collection progress and guide data collection SMEs
- Collect and analyze available data associated with the operations environment and spend, including:
 - Business and IT strategy artifacts and application and technology road maps
 - Operational and security reports
 - Organization charts
 - Volumetric data e.g., incidents and ticket counts, service requests
 - List of in-flight or planned projects
 - Customer satisfaction survey results

Deliverables

- Environment and baseline data collection requirements
- Data collection results summary

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- ## Deliverables

- Interview guides
- Data collection and interview findings summary

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Sample

Interview Schedule & Time Commitments

	People	Process	Governance	Technology
Strategy	Operating Model Vision			Technology Vision
	Current Projects in Place and status			
	Yr5/Yr6			
Operations	Organisational Structure (Chart) and work distribution			
	Skill Requirements/Mapping	Current Process Maps (inc. Controls/compliance req.)		System Interactions
	Specific Regional /Regulatory requirements			
	Process & People Assessment Details (Complexity, Core/Non-Core/ exceptions, maturity) portability) if done			
Tactical Data	Process Volumes (By Process Area) for last three years		SLAs and OLAs	
	Current Spend/Spa (People salaries)/Facilities/In-scope Technologies			

Interview Schedule Planning			
Category	Core Interview Time Requested	Time requirements per week	
Executive			
Steering Committee	1 x Executive Sponsor plus Senior Officers as defined by Steering Committee	2-3 hour participation of key informants agreed to 10-15 hours/week during Solution Evaluation	
Core Team			
Project Lead	Overall Centene Health Lead	10-15 hours/week	
Research and Lead	Support as required	10-20 hours/week	
Lead	10-15 hours increase during topic session	10-20 hours/week	
Contracted Lead	Contract Experience (Legal or Non-Legal)	10-15 hours increase during negotiation	
Project Agent	Lead and PMO Lead Strategy	10-20 hours/week	
Support Roles			
1RD	Workstream Lead	4 x hours per week during Interviews & evaluation	
Yes	Workstream Lead	4 x hours per week during Interviews & evaluation	
Yes	Workstream Lead	4 x hours per week during Interviews & evaluation	
Yes	Workstream Lead	4 x hours per week during Interviews & evaluation	
Yes	Workstream Lead	4 x hours per week during Interviews & evaluation	
Yes	Workstream Lead	4 x hours per week during Interviews & evaluation	
Yes	Workstream Lead	4 x hours per week during Interviews & evaluation	
Business Strategy			
Productivity	Area SME	4-6 hours/week	
Line of Business	Area SME	4-6 hours/week	
Growth and retention	Area SME	4-6 hours/week	

Interview Findings Report Summary

[illegible][illegible]

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Phase 1: Step 3 - Current State Assessment



Task - 1.3.1 Develop Current State Assessment & Conduct Review Session

- Develop a current state assessment based on data collection and interview findings, best practices and Avasant experience with similar environments in the following areas:
 - Customer satisfaction
 - IT operating model, processes and tools
 - Technical, process, vendor management and governance competencies and skills
 - Current talent and capabilities mix
 - Applications and infrastructure portfolio
 - Business and IT alignment
- Conduct a working session with the project team to review the current state assessment findings and to identify and prioritize key factors to be addressed through the future state model in the above areas

Deliverables

- Current State Assessment and Future State Model Priorities

Phase 1: Step 3 - Current State Assessment

Operating Model

Processes Assessment



Phase 1: Step 4 - Financial Model



Task - 1.4.1 Establish Financial Baseline

- Facilitate cost baseline development and validation with financial SME

Task - 1.4.2 Future State Budget Estimates

- Provide market price guidance for externally sourced execution elements
- Identify any one-time costs and budgetary impacts associated with plausible scenarios
- Identify cost savings opportunities based on comparison with the baseline cost

Deliverables

- Cost Baseline
- Price guidance for externally sourced execution elements
- Cost impact analysis

Phase 1: Step 4 – Financial Model Baseline



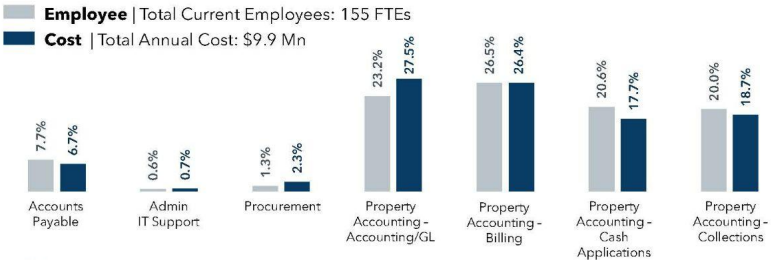
Cost Baseline by Process Area

Total Expenditure:							
Category	P2P	O2C	R2R	R2R - Ops Support	H2R	Total (In-Scope Areas)	Other Areas (Out of Scope)
Client	\$5.92 M	\$24.83 M	\$19.42 M	\$25.89 M	\$5.34 M	\$81.40 M	\$52.92 M
Vendor	\$5.67 M	\$2.29 M	\$5.61 M	\$3.20 M	\$4.72 M	\$21.49 M	\$27.08 M
Total	\$11.59 M	\$27.12 M	\$25.03 M	\$29.09 M	\$10.06 M	\$102.89 M	\$80.0 M

Total Headcount (FTE):							
Category	P2P	O2C	R2R	R2R - Ops Support	H2R	Total (In-Scope Areas)	Other Areas (Out of Scope)
Client	144.00	599.00	315.00	433.00	87.00	1578.00	203.00
Primary Vendor	200.74	79.07	142.63	75.83	75.00	573.27	N/A
Other Vendors	0.00	0.00	0.00	0.00	0.00	0.00	263.50
Total FTEs	344.74	678.07	457.63	508.83	162	2151.3	466.50



Employee and Cost Segment by Department



Phase 1: Step 5 - Scenario Analysis



Task -1.5.1 Identify Target Models & Opportunities

- Identify potential execution models for further analysis based on the business and IT drivers, current state assessment findings, future state priorities, Avasant's marketplace knowledge and financial impact
- Identify the most plausible target models and opportunities based on the evaluation levers

Task - 1.5.2 Conduct Scenario Review & Identify Optimal Model

- Conduct scenario workshops to review the benefits, impacts, risks, cost and potential savings associated with each scenario
- Present view of each candidate scenario
- Working with project team, identify the most appropriate future state model

Deliverables

- Scenario analysis
- Recommended scenarios for project team consideration
- Future state model recommendation

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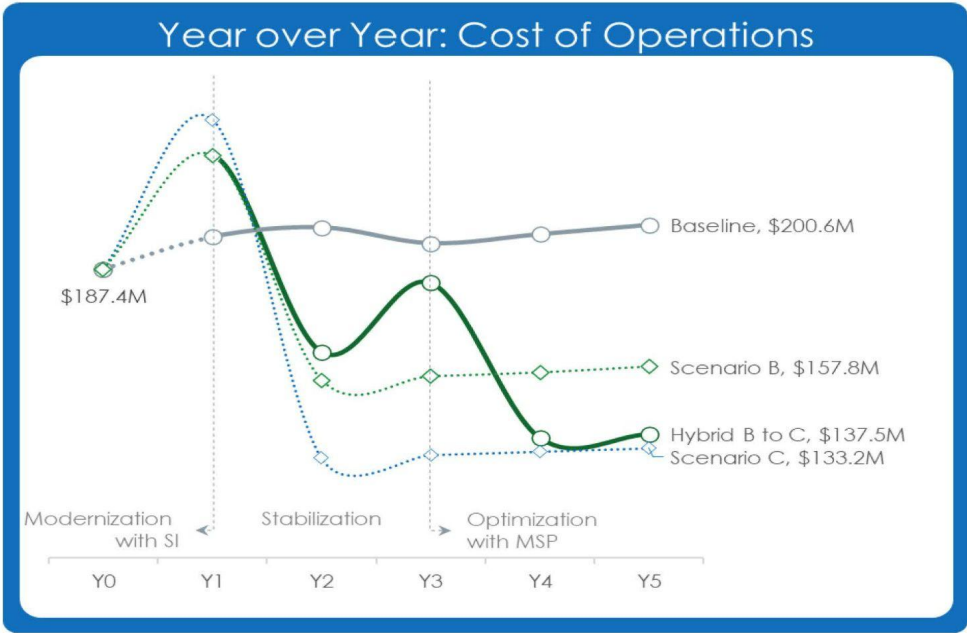
Phase 1: Step 5 - Scenario Analysis



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Phase 1: Step 5 – Scenario Analysis

Sample



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Phase 1: Step 5 – Scenario Analysis

Sample

Savings Potential

5-year Spend \$990.6M	Savings Percentage 14% - 15%	Savings Percentage 15% - 16%	Savings Percentage 22% - 24%
Y5, \$200.6M	\$140M - \$150M	\$150M - \$160M	\$220M - \$240M
Y4, \$197.9M	Y5, \$157.8M	Y5, \$137.5M	Y5, \$133.2M
Y3, \$195.1M	Y4, \$156.0M	Y4, \$136.4M	Y4, \$132.2M
Y2, \$199.9M	Y3, \$154.8M	Y3, \$183.2M	Y3, \$131.2M
Y1, \$197.1M	Y2, \$153.7M	Y2, \$162.2M	Y2, \$130.2M
Y0, \$187.4M	Y1, \$221.8M	Y1, \$221.8M	Y1, \$232.5M
	Y0, \$187.4M	Y0, \$187.4M	Y0, \$187.4M
Baseline	Scenario B	Hybrid B to C	Scenario C

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Phase 1: Step 6 - Market Scan



Task -1.6.1 Conduct Execution Partners Market Scan

- Provide Avasant RadarView Research and general marketplace data for externally sourced elements of the transformation plan
- Conduct a market capability review with project team

Deliverables

- List of viable third-party execution partners

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Sample Avasant RadarView™ and Market Scan reports



CGI: RadarView Profile



State & Local Government Digital Services 2020-2021

Practice Maturity ★★★★★

Investments & Innovation ★★★★★

Partner Ecosystem ★★★★★

Utilizes innovation-led approach to expedite digital transformational journeys for government agencies. Fosters strong partner ecosystem for developing customized digital solutions.

Practice Overview	Industry-Specific Solutions/Offerings	Sample Clients
• Delivery Highlights: 12 innovation centers in Canada (1), Finland (1), France [92], The Netherlands (1), UK (2), US (4) 33% Share of total revenue FY19 coming from government 40+ Years of serving local government	IoT Data Management Captures IoT sensor data, stores in cloud to provide real-time insights through analytical tools Disaster Recovery Reporting System Cloud-based solutions for tracking the disbursements of funds with regulatory requirements Computer Assisted Collection System An analytical solution for prioritizing case workloads to achieve collection success Case Management An automation solution for driving efficiencies and customer service	• Kentucky Department of Revenue • Province of Quebec • 9Health • Kateri Memorial Hospital Center • Kiruna Municipality in Sweden
Partnerships/Alliances		Service Line Coverage
To help clients with large-scale implementations of Agile methods and to manage Agile transformation projects based on the Scaled Agile Framework (SAFe)® To deliver SAP services in 25 areas, including deployment, application management, and hosting services To deliver large-scale, Oracle-based cloud projects To deliver big data management and IoT solutions To implement Salesforce cloud-based customer engagement solutions for tapping new opportunities To develop and deliver cloud and digital workplace services using Microsoft capabilities To deliver Cisco-powered cloud services		Government – Citizens Government – Businesses Government Operations Smart City: Infrastructure Smart City: Transportation Smart City: Utilities Smart City: Health and Human Services Smart City: Public Safety and Justice



Phase 1: Step 7 - Strategy & Roadmap

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Task - 1.7.1 Develop Future State Strategy & Strategy Roadmap

- Consolidate findings and results from previous project steps
- Identify specific requirements and dependencies, impacts, risks and costs to execute the optimal future state model identified
- Conduct a working session to review outcomes from previous project steps
- Confirm the optimal future state model
- Develop an execution road map that will include the key activities, timelines, milestones, dependencies, and key risk mitigation measures for the short term, intermediate term and long term time horizon to implement the execution strategy
- Present results and recommendations to executive management

Deliverables

- IT Transformation Plan Execution Strategy and Roadmap

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Implementation Roadmap

Sample

Area	Activities	2021 Q2	2021 Q3	2021 Q4	2022 Q1	2022 Q2	2022 Q3	2022 Q4	2023 Q1	2023 Q2	2023 Q3	2023 Q4	2024 Q1
Network & Security	RFS and Future State	RFS	★ Sourcing Transaction	★ Transition Mgmt	★								
	Phased Transformation				Phased Transformation Management				★				
	Stabilization & Ongoing Delivery					Stabilization	Ongoing Service Delivery						
IT Services	IT Services - Infrastructure	Assessment	★ Sourcing Transaction	★ Transition Mgmt.	★ Stabilization	Ongoing Service Delivery							
	IT Services - Applications		Assessment	★ Sourcing Transaction	★	Transition	★ Stabilization	Ongoing Service Delivery					
	Application Consolidation			Application Rationalization									
	IT Services - End User Services		Assessment	★ Sourcing Transaction	★	Transition & Transformation	★ Stabilization	Ongoing Service Delivery					
Operational Oversight	Org. Design & Implementation		Org Model Design	Org Model Implementation									
	HR Plan Development & Execution		HR Plan Strategy	HR Plan Implementation									
	Vendor Management	VMO Strategy	VMO Implementation		Ongoing Vendor Management								
Execution Oversight	Operating Model and IT Governance	Op Model Design	IT Governance Model										
	OCM	OCM Strategy	OCM Strategy Implementation & Communications				Ongoing OCM & Communication						
	Program Management		PMO Setup		Ongoing Program Management								

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★ Management Check Point

■ Client

■ Avasant

■ Provider

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Project Timeline & Professional Fees – Phase 1

Task	Weeks	1	2	3	4	5	6	7	8	9	10
1.1 Program Planning and Kickoff											
1.2 Data Collection and Interviews											
1.3 Current State Assessment											
1.4 Financial Model											
1.5 Scenario Analysis											
1.6 Market Scan											
1.7 Strategy & Roadmap											

Engagement Description	Estimated Duration	Std Rate per week	Discounted Rate	Fees
IT Transformation Plan Execution Strategy and Roadmap	8 weeks	\$35,000	\$18,625	\$149,000
Pricing Terms				
• Avasant team will willing to travel as required • Client will be billed separately for all travel and expenses per client policies at actuals if travel is required • Pricing is exclusive of applicable taxes (VAT etc.) • Avasant will invoice monthly. The durations stated above are estimates and may change based on the actual scope of work and agreed project plan • Avasant's preferred payment term is within 30 days of invoice submission • Any client-approved extensions will be charged at the Preferred Client Discounted Rate • Client may suspend or terminate the engagement with 2 weeks' notice				



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Market Assessments - RadarView (Reports) • Technology, industry, regional market assessments		✓
Unlimited Analyst Inquiries		✓
Additional IT Leader Seats (3 pack increments)		\$5,000

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Market Assessment of global tech leaders and digital innovators

Country RadarView
Region Specific Market Assessments

Tool Provider RadarView
Market Assessment of leading platforms and software

Industry Specific RadarView
Market Assessment of Industry Leaders





Case Study: The City of San Diego

THE GOAL: To reduce costs and increase IT efficiencies with minimal impact to jobs in the San Diego area by transforming their IT strategy

APPROACH & OUTCOME:



Defined the parameters for desired future state through organizational interviews, current state assessment, financial analysis, alternatives analysis and implementation roadmap



Developed City-wide technology and services requirements and a solicitation package for IT services. Managed provider selection process and participated in contract negotiations



\$150 million-dollar contract for IT services covering infrastructure and network transformation; Estimated 14% savings over the contract term



Case Study: The City of Santa Clara

THE GOAL: To develop a technology roadmap which aligned the City's Business and Information requirements and optimized ROI

APPROACH & OUTCOME:



Assessed current managed services provider's contract; Developed a strategy and implementation roadmap to transform the City's IT ecosystem focused on service delivery improvement, alignment and ROI



Executed outsourcing transaction; Developed framework for improved contract governance of service delivery; Provided transition support services and on-going steady state governance advisory services



Modernized City's IT platforms and improved City's service levels; Enabled the City's central IT service to meet the key business requirements and missions of the City's dependent departments



Case Study: County of Orange

THE GOAL: To develop an IT Services and Sourcing Strategy that leverages sourcing business models and best practices to provide cost-effective technology services

APPROACH & OUTCOME:



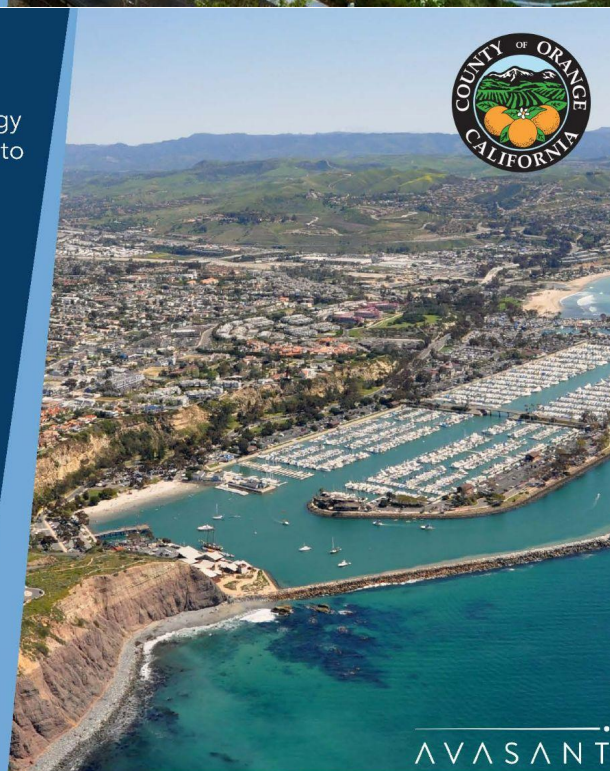
Conducted a contract review of the incumbent Service Provider's managed infrastructure and applications contract with the County, identified gaps and risks, and recommended contract improvements



Supported provider selection and negotiation of legal & business terms and conditions, SOW, Service Levels and pricing; Developed transition plan to mitigate risk and provide benefits for County's requirements and policies



Enabled the County to achieve a projected estimated savings between 17-24% of their baseline costs.



The City of San Diego

Reference #2	
Client	The City of San Diego 
Reference Name	Shawn Killpack
Reference Position	Deputy Director, IT Contracts
Reference Contact	Telephone (619) 533-3059
Reference Email Contact	shawn.killpack@sandiego.gov

The City of Santa Clara

Reference #1	
Client	The City of Santa Clara 
Reference Name	Gaurav Garg
Reference Position	Chief Information Officer
Reference Contact	Telephone (408) 615-2022
Reference Email Contact	ggarg@santaclaraca.gov



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RATES AND COSTS EXHIBIT



Project Timeline & Professional Fees – Phase 1

Task	Weeks	1	2	3	4	5	6	7	8	9	10
1.1 Program Planning and Kickoff											
1.2 Data Collection and Interviews											
1.3 Current State Assessment											
1.4 Financial Model											
1.5 Scenario Analysis											
1.6 Market Scan											
1.7 Strategy & Roadmap											

Engagement Description	Estimated Duration	Std Rate per week	Discounted Rate	Fees
IT Transformation Plan Execution Strategy and Roadmap	8 weeks	\$35,000	\$18,625	\$149,000
Pricing Terms				
- Avasant team will willing to travel as required - Client will be billed separately for all travel and expenses per client policies at actuals if travel is required - Pricing is exclusive of applicable taxes (VAT etc.) - Avasant will invoice monthly. The durations stated above are estimates and may change based on the actual scope of work and agreed project plan - Avasant's preferred payment term is within 30 days of invoice submission - Any client-approved extensions will be charged at the Preferred Client Discounted Rate - Client may suspend or terminate the engagement with 2 weeks' notice				

Agreement No. 32300240

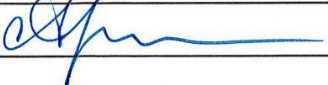
INSURANCE EXHIBIT

TRAVEL EXPENSE REIMBURSEMENT EXHIBIT

CITY OF OXNARD

ADMINISTRATIVE MANUAL

SUBJECT: Authorization and Reimbursement For Travel and Related Expenses	ITEM NUMBER	PAGE
EFFECTIVE DATE: October 12, 2022	B-2	1 of 7

Approved by : Betsy George, CFO	Approved by: Alexander Nguyen, City Manager
	

PURPOSE

To establish a policy for authorization and reimbursement for travel and related expenses incurred by an employee in connection with official City business, both within and outside of the City, and within and outside of the County of Ventura.

APPLICABILITY

This policy applies to travel paid for by the City. Travel reimbursed by Federal or State funding may be subject to further restrictions based on funding agency requirements.

DEFINITION OF TRAVEL

For the purposes of this policy, the word "travel" means activities of an employee required to attend a conference, workshop or meeting, either formal or informal.

1. Local Travel

Local travel is travel within a distance of 100 miles from the City and accomplished within one day.

City Manager authorization is required for local travel involving more than two (2) employees travelling either together or separately to the same event with the exception of elected officials. All other local travel requires supervisor's approval.

2. Nonlocal Travel

Nonlocal travel is travel involving at least one overnight absence from the City or to a location more than 100 miles from the City.

City Manager authorization is required for all nonlocal travel with the exception of elected officials.

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EXPENSE GUIDELINES1. Standard

An employee is expected to exercise reasonable judgment and proper regard for economy when incurring expenses in connection with travel for the conduct of City business. Any expense should directly relate to the conduct of City business, and in the event of an audit subsequent to reimbursement, should leave no question that such expenditure in fact did directly relate to the conduct of City business.

2. Classifications

The following list of expense classifications is for guidance in determining expenses appropriate for the conduct of City business. The City Manager may approve or disapprove any of the types of travel expenses below, or any other expenses not listed, as appropriate to specific circumstances.

a. General

Travel time will not exceed one day in each direction while en route to and from a conference, workshop or meeting. All travel will be by the mode least costly to the City. In arriving at the lowest cost, an employee must consider factors such as time, distance traveled and cost of transportation. When two or more persons are traveling by motor vehicle, every reasonable effort should be made to travel together.

b. Transportation Modes

The following guidelines shall be used in selecting the most appropriate mode of non-local travel for City business.

- (1) Air – The allowance for air travel will be the actual round-trip fare by coach or tourist class or by the method least costly to the City. An employee will make special efforts to take advantage of discounts and special fares when such fares and discounts produce “real savings” to the City.
- (2) Private Vehicle – With prior written approval from the Department Director, an employee may use a personal vehicle for transportation in lieu of air travel or a City vehicle. The reimbursement of mileage for use of a private vehicle will not exceed the cost of coach air travel from a local airport to the destination and transportation to and from the airport. The mileage allowance used will be equal to the IRS allowable mileage rate authorized for business travel. The Chief Financial Officer will notify

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Department Directors and Division Managers on an annual basis as to the current IRS rate.

Insurance – In order to travel by private vehicle, an employee must possess the required vehicle insurance with limits of not less than \$100,000/\$300,000 public liability and \$25,000 property damage, or a combined single limit of \$300,000 public liability, and \$25,000 property damage, or a combined single limit of \$300,000.

- (3) City Vehicle - Use of a City vehicle may be authorized by the Department Director for travel to and from designated places on City business when the employee can demonstrate that this method of transportation is the most economical means available. There will be no allowance or reimbursement to an employee for transportation for use of a City vehicle. Any out-of-pocket expenses incurred in operating the vehicle will be reimbursed if the employee provides receipts.
- (4) Storage and Parking Expense - Charges for parking and storage for a private or City vehicle will be reimbursed if the employee provides receipts.
- (5) Vehicle Rental, Taxi and Bus Fare - Expenses for vehicle rental, taxi or bus fare may be reimbursed when such conveyances are reasonable and necessary in the conduct of City business. To obtain reimbursement, an employee will provide a receipt.
- (6) Other Travel Modes – If travel is not by air, reimbursement will be the lesser of the actual cost and the computed air coach rate including travel to and from the airport if not Oxnard Airport, using the shortest and most direct route to and from the location of the City business.

c. Accommodations

An employee shall make special efforts to obtain accommodations at or near the location of the City business at the lowest rate available. If accommodations are not available at the location of the City business, alternative accommodations of similar value shall be used.

d. Meals

(1) Nonlocal Travel

An employee authorized to travel may receive, in addition to transportation and accommodation expenses, a meal allowance for each day or part thereof. A meal allowance will be allowed or reimbursed for days actually spent on City business, for programmed days of a conference, workshop or meeting, and for time in traveling.

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(2) Local Travel

- (a) Occasionally, a City employee is required to attend a local conference, workshop or meeting on City business during which a meal is served. Allowable expenses for such activities include the cost of the meal and tip.
- (b) An employee who, during the normal course of performing duties, must provide for a meal for representatives of governmental agencies or other persons doing business with or for the City in order to most effectively execute responsibilities, may be authorized reimbursement for expenses associated with such meals. When requesting such reimbursement, an employee will submit documentation which will include: copy of receipt, description of purpose of meal, list of all persons, and organizations present at the meal.
- (c) Reimbursement shall be limited to Federal per diem rates under paragraph e(2) below.

e. Meal Allowance**(1) Amount**

Effective February 1, 2011, for all nonlocal travel, an employee will be provided a per diem allowance based on the Federal per diem rate as listed at <http://www.gsa.gov> for the destination city (M&IE rate).

Per diem will be reduced by the amounts provided in the <http://www.gsa.gov> M&IE Breakdown for meals provided for or included in meeting or conference registration.

(2) Calculation

In the event that the employee is not on City business for the entire day, the meal allowance will be prorated as follows using the <http://www.gsa.gov> M&IE Breakdown:

Breakfast: paid if travel begins prior to 7:00 a.m. or ends after 9:00 a.m.

Lunch: paid if travel begins prior to 11:00 a.m. or ends after 1:00 p.m.

Dinner: paid if travel begins prior to 5:00 p.m. or ends after 7:00 p.m.

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The employee's supervisor will monitor the time of departure and arrival to ensure proper payment of the meal allowance.

f. Tips and Gratuities

The employee will be reimbursed for reasonable expenses for tips and gratuities for accommodation and transportation purposes. Tips and gratuities for meals are limited to the per diem rate under paragraph e(2) above and are not in addition to those rates.

g. Registration Fees

The City will reimburse the employee for fees charged for registration at any conference, workshop or meeting. An employee will provide a receipt or other proof of the registration fee, such as a copy of the conference, workshop or meeting program setting forth the fee, with any such reimbursement request.

h. Communication

Communication expenses may be incurred only for the conduct of City business. During nonlocal travel, an employee may make one telephone call per day of a short duration (5 minutes) at City expense for personal reasons.

PAYMENT AND REIMBURSEMENT

1. Payment for transportation, hotel, registration, and all other payments made prior to travel shall be made using a City-issued credit card (P-card).
2. Meals will be reimbursed on the per-diem basis described above. If a P-card is used for meals, the employee will be responsible for costs in excess of the per-diem rate.
3. Advance of Funds

An employee will be eligible for a travel advance of over \$100 after a Travel Authorization Form is approved by the City Manager. Travel advances are only for nonlocal travel. A copy of the approved Travel Authorization Form must be submitted to the Purchasing Division, along with the necessary Purchase Order, at the time an employee requests a travel advance. With at least seven days' notice, the Purchasing Division will prepare a travel advance check to an employee to be delivered within five days prior to the travel. The travel advance will be in an amount equal to 75 percent of the per diem allowance for the trip.

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4. Final Reimbursement**a. Completion of Forms**

No later than ten working days after returning to work, the employee will complete the Travel Authorization Form to show actual or authorized expenses, with required receipts. The completed Travel Authorization Form and required receipts will be uploaded into the accounts payable system by the Department for approval routing and payment.

b. Payment

The City will make travel payments as a separate check through the Accounts Payable Non Vendor Payment process. All advances including travel, registration, accommodations, per diem allowance, and transportation, will be deducted from the total expense. If the advance exceeds the actual expenses, an employee must submit a remittance with the completed claim for payment. If reimbursement is \$100 or less, petty cash will be used.

c. Non-City Costs

The Finance Department shall prepare an Accounts Receivable invoice in the accounts receivable system to facilitate the employee payment to the City for non-City-related costs charged to a City P-card or paid from City sources. Payment shall be submitted within 30 days.

OTHER**1. Cancellation of Travel**

If the travel is canceled, an employee must return all advances immediately. If the claim for payment is not submitted within ten working days, the travel account shall be closed out and the employee shall not be reimbursed for out-of-pocket expenses.

2. Audit

The Finance Department shall audit the items submitted for accuracy and the allowability of the expenses for reimbursement, and, when appropriate, prepare a check for payment to the employee. In those cases where two or more employees travel together in another employee's private vehicle, mileage reimbursement, where appropriate, will be paid to one employee only.

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3. Spouses

Although fiscal limitations do not allow the use of City funds for a spouse to accompany an employee, the attendance of a spouse serves and promotes desirable City purposes and goals. Expenses incurred by the City specific to a spouse will be charged to the employee as in paragraph 4.c. above.

4. Document Retention

All records must be retained in accordance with the City of Oxnard Records Management Policies and Procedures Manual (Manual) and the City of Oxnard Records Retention Schedule (Schedule). The Manual documents all aspects of records retention and disposition. The Schedule establishes each Department's record retention schedules.

Version	Summary of Changes	Reason for Changes
1.0	First version of document effective February 1, 2011	
2.0	• Incorporated references to new ERP system • Added reference to City of Oxnard Records Management Policies and Procedures Manual (Manual) and the City of Oxnard Records Retention Schedule (Schedule)	To incorporate changes in process due to ERP implementation

First Amendment to IT Transformation Plan Execution Strategy & Roadmap Agreement #32300240 with Avasant LLC

City Council

May 2, 2023

Helen Miller, Chief Information Officer

That the City Council approve and the Mayor execute a first amendment to Avasant LLC agreement #32300240 for information technology consulting services for an additional \$130,375, resulting in a revised not-to-exceed total cost of \$279,375, for the completion of an IT transformation plan execution strategy and roadmap on or before June 30, 2023.

- Executed agreement with Avasant, a technology management advisory services company, Jan 2023
 - Develop IT strategy & sourcing study
 - Guide execution of City's IT transformation & operating model plans
- Key Advisory Elements
 - City Depts' & IT's drivers
 - IT transformation & operating model objectives and vision
 - Current state IT environment gaps & risks to address
 - Future state options optimizing City sourcing framework for each element
 - IT transformation plan execution strategy & roadmap

- City challenges - fulfilling evolving IT needs based solely on internal staff approach
- Identify optimal sourcing approach for each element of plan; e.g.
 - Software as a service (SaaS)
 - Cloud-based solutions
 - Third party managed services
 - Contractors to support short term initiatives
 - City employees to support high value plan elements
- Identify dependencies for moving to identified solutions
 - short, intermediate, long term actions => achieve City digital / tech goals

- Eight week engagement (2/1/23 to 3/23/23)
- Requires estimated additional five weeks to complete
- Plus staff recommends two weeks contingency
- Why?
 - More time for staff investigation & data collection
 - Drivers: City decentralization of IT and IT high vacancy rate at 62%
- Revised completion date is on or before June 30, 2023
- Allows for completion of:
 - Data collection
 - Current state assessment
 - Target systems environments & operating model
 - Technology market scan
 - Financial model
 - Strategy with roadmap

Projected expenditures for Avasant advisory services

Category	Cost
Professional services agreement (2/1-3/23/23)	\$149,000
Amendment, add 5 weeks	\$93,125
Contingency, add 2 weeks	\$37,250
TOTAL – not to exceed through 6/30/23	\$279,375

Funds for these expenditures is budgeted in the IT Department's current fiscal year, FY 22-23. No further allocations are required in future fiscal years.

That the City Council approve and the Mayor execute a first amendment to Avasant LLC agreement #32300240 for information technology consulting services for an additional \$130,375, resulting in a revised not-to-exceed total cost of \$279,375, for the completion of an IT transformation plan execution strategy and roadmap on or before June 30, 2023.



QUESTIONS



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

DATE: May 2, 2023

TO: City Council

FROM: Maureen Tamuri, Interim Community Development Director, (805) 385-7882, maureen.tamuri@oxnard.org

SUBJECT: Planning and Zoning Permit No. 21-300-04 (Final Map for 21-300-04) for the 1600 Ives Avenue Subdivision. Filed by Hassan Amirsadeghi, Habitat Properties, 10717 Wilshire Boulevard, Unit 607, Los Angeles, California 90024.

RECOMMENDATION

That the Oxnard City Council:

1. Accept Final Map 21-300-04 for the 1600 Ives Avenue Subdivision;
2. Receive and file a "Notice of Pending Approval" for Parcel Map 21-300-04 by the Interim Community Development Director including signature of "City Council's Certificate" on the title sheet.
3. Authorize the City Clerk to sign the "Abandonment Certificate" for the vacation of certain infrastructure easements.

BACKGROUND

On July 28, 2022, the City Council approved Tentative Parcel Map 21-300-04. Tentative Parcel Map 21-300-04 included the subdivision of a developed parcel into two lots and associated infrastructure improvements.

DISCUSSION

The Final Map (Attachment 1) involves subdividing a 1.78 acre developed, commercially zoned property into two parcels (Parcel 1 is 0.99 acres and Parcel 2 is 0.79 acres) and construction related public improvements. Required infrastructure associated with the development of the project, such as sidewalk, street curb, and improvements for compliance with storm water quality requirements, will be completed during the development of the commercial lots with a coffee house with drive-thru and a fast food restaurant with drive thru.

In accordance with Chapter 15, Division 3, Section 15-55 of the "Subdivision Ordinance" of the Oxnard City Code, the Interim Director intends to approve the map within ten business days following this City Council meeting. Within the ten business days following the City Council's receipt of "Notice of Pending Approval" the City Clerk will attest in signature to the Interim Director's approval at that time (see Attachment 2).

The abandonment of an existing waterline easement requires the City Council to direct the City Clerk to sign the "Abandonment Certificate" on the title page of the map.

The City Engineer/Surveyor has reviewed the Final Map and issued their approval by providing the Verification of Status form indicating that the Final Map, as currently prepared, will be in compliance with the State Subdivision Map Act and Oxnard City Code requirements, and will conform to the previously approved Tentative Parcel Map (PZ 21-300-04) (Attachment 3).

ENVIRONMENTAL IMPACT

The City Council previously found the Tentative Parcel Map Categorically Exempt from the State of California Environmental Quality Act (CEQA) Guidelines in accordance with Section 15332 (Class 32, Infill Exemption). The acceptance of a Final Map consistent with a Tentative Map, and accepting public access and utility easements and implementing conditions of approval is Statutorily Exempt from the CEQA Guidelines in accordance with Section 15268 (Ministerial Projects).

STRATEGIC PRIORITIES

This agenda item supports Economic Development strategy. The purpose of Economic Development strategy is to focus on the retention and expansion of Oxnard businesses by increasing the skills and employability of our local workforce, invite new business investments, and target site-based redevelopment opportunities.

FINANCIAL IMPACT

The map provides the opportunity for future development that will result in increased property tax revenue to the City.

COMMITTEE OUTCOME

This Map originated from a City Council public hearing on July 28, 2022, approving Tentative Parcel Map No. 21-300-04. (PZ 21-300-04) and the recommended actions are consistent with that action; therefore, this item did not originate in Committee.

Prepared by: Jay Dobrowalski, Planning Supervisor

ATTACHMENTS

1. Final Parcel Map 21-300-04
2. Notice of Pending Approval - Final Map No. 21-300-04
3. Verification of Status Form

OWNER’S STATEMENT

THE UNDERSIGNED HEREBY STATES THAT THEY ARE THE OWNERS OF, OR HAVE RECORD TITLE INTERESTED IN, THE REAL PROPERTY INCLUDED WITHIN THE BOUNDARY OF THE SUBDIVISION SHOWN ON THIS MAP, THAT THEY ARE THE ONLY PERSON WHOSE CONSENT IS NECESSARY TO PASS TITLE TO SAID REAL PROPERTY, AND THAT THEY CONSENT TO THE MAKING AND RECORDATION OF SAID MAP AND SUBDIVISION AS SHOWN WITHIN THE EXTERIOR BOUNDARY LINE; AND THAT THEY DO HEREBY OFFER TO DEDICATE TO THE CITY OF OXNARD THE FOLLOWING ITEMS:

- 1. ALL WATER RIGHTS AND THE RIGHTS TO DEVELOP ALL WATER FOUND UNDER SAID REAL PROPERTY WITHOUT, HOWEVER, THE RIGHT OF SURFACE ENTRY.
- 2. AN EASEMENT FOR SIDEWALK PURPOSES AND ALL USES INCIDENTAL HEREON.
- 3. AN EASEMENT FOR WATER PIPELINE PURPOSES AND ALL USES INCIDENTAL HEREON.

1600 IVES, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

FRED JAJOU, MANAGING MEMBER DATE

BENEFICIARY STATEMENT

THE LOAN COMPANY OF SAN DIEGO, A CALIFORNIA LIMITED PARTNERSHIP, THE PRESENT BENEFICIARY UNDER THE DEED OF TRUST RECORDED MARCH 9, 2022 IN OFFICIAL RECORDS AS INSTRUMENT NO. 2022000032284, AND RE-RECORDED SEPTEMBER 6, 2022 IN OFFICIAL RECORDS AS INSTRUMENT NO. 2022000090692.

DATE

SEE NOTARY ACKNOWLEDGMENT ON SHEET 2

SOILS AND/OR GEOLOGIC REPORT

THE FOLLOWING SOILS REPORT AND/OR GEOLOGIC REPORTS RELATING TO PARCEL MAP NO. 21-300-04 HAVE BEEN PREPARED:

DATE OF REPORT: JUNE 4, 2021
TITLE OF REPORT: GEOTECHNICAL ENGINEERING STUDY
PROPOSED COMMERCIAL DEVELOPMENT
FIRM NAME: ADVANCED GEOTECHNICAL SERVICES, INC.
ENGINEER: SCOTT MOORE, GE 2560
LOCATION WHERE ON FILE FOR PUBLIC INSPECTION: CITY OF OXNARD ENGINEERING DEPARTMENT

ABANDONMENT CERTIFICATE

THIS IS TO CERTIFY THAT PURSUANT TO SECTION 66434(G) OF THE SUBDIVISION MAP ACT, THE FILING OF THIS PARCEL MAP CONSTITUTES ABANDONMENT OF THOSE PORTIONS OF THE FOLLOWING EASEMENTS LYING WITHIN THE EXTERIOR BOUNDARY THIS SUBDIVISION NOT SHOWN ON THIS MAP.

SIDEWALK AND PIPELINE EASEMENTS DESCRIBED AS PARCELS 1 AND 4 PER INSTRUMENT NO. 89-41020 OF OFFICIAL RECORDS, RECORDED MARCH 16, 1989.

ROSE CHAPARRO
CITY CLERK
CITY OF OXNARD

CITY SURVEYOR’S STATEMENT

I HEREBY STATE THAT I HAVE EXAMINED THE MAP ENTITLED PARCEL MAP NO. 21-300-04 AND I AM SATISFIED THAT THE MAP IS TECHNICALLY CORRECT.

JAMES P. FALLON, PLS 7807 DATE
ACTING CITY SURVEYOR
CITY OF OXNARD



ENGINEER’S STATEMENT

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF FRED A. JAJOU ON JUNE 29, 2021. I HEREBY STATE THAT THE SURVEY IS TRUE AND COMPLETED AS SHOWN, THAT ALL THE MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED (OR THAT THEY WILL BE SET IN THOSE POSITIONS WITHIN ONE YEAR AFTER RECORDATION OF THIS PARCEL MAP) AND THAT THE MONUMENTS ARE (OR WILL BE) SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED, AND THAT THIS FINAL MAP SUBSTANTIALLY CONFORMS TO THE CONDITIONALLY APPROVED TENTATIVE MAP. CORNER RECORDS FOR ALL CENTERLINE MONUMENTS SHOWN HEREON AS SET BY ME WILL BE ON FILE IN THE OFFICE OF THE COUNTY SURVEYOR PRIOR TO ACCEPTANCE OF THE IMPROVEMENTS INTO THE CITY ROAD SYSTEM .

DATED: , 2023

DENNIS C. FARNSWORTH, RCE 31653



CITY ENGINEER’S CERTIFICATE

I HEREBY STATE THAT I HAVE EXAMINED THE MAP ENTITLED PARCEL MAP NO. 21-300-04, AND THAT THE SUBDIVISION SHOWN HEREON IS SUBSTANTIALLY THE SAME AS IT APPEARS ON THE TENTATIVE MAP AND ANY APPROVED ALTERATIONS THEREOF, THAT ALL PROVISIONS OF THE SUBDIVISION MAP ACT OF THE STATE OF CALIFORNIA AND ANY LOCAL ORDINANCES APPLICABLE AT THE TIME OF THE APPROVAL OF THE TENTATIVE MAP HAVE BEEN COMPLIED WITH.

DATED: , 2023

JEFF R. PENGILLEY, RCE 59872
CITY ENGINEER, CITY OF OXNARD



CITY TREASURER’S CERTIFICATE

I PHILLIP S. MOLINA, CITY TREASURER OF THE CITY OF OXNARD, COUNTY OF VENTURA, STATE OF CALIFORNIA, DO HEREBY CERTIFY THAT ACCORDING TO THE RECORDS OF MY OFFICE, THERE ARE NO LIENS AGAINST PARCEL MAP NO. 21-300-04 OR ANY PART THEREOF, FOR UNPAID MUNICIPAL TAXES OR SPECIAL ASSESSMENTS COLLECTED AS MUNICIPAL TAXES, EXCEPT TAXES OR SPECIAL ASSESSMENTS COLLECTED AS MUNICIPAL TAXES , EXCEPT TAXES OR SPECIAL ASSESSMENTS NOT YET PAYABLE.

WITNESS MY HAND AND THE OFFICIAL SEAL OF THE CITY OF OXNARD THIS ___ DAY OF _____, 2023.

PHILLIP S. MOLINA
CITY TREASURER, CITY OF OXNARD

CITY COUNCIL CERTIFICATE

THIS MAP, ENTITLED PARCEL MAP NO. 21-300-04, CONSISTING OF 3 SHEETS, HAS BEEN PRESENTED TO THE CITY COUNCIL OF THE CITY OF OXNARD, OF VENTURA COUNTY, CALIFORNIA FOR APPROVAL. PURSUANT TO THE CITY COUNCIL’S DELEGATION OF AUTHORITY ADOPTED ON NOVEMBER 15, 2016 PURSUANT TO ORDINANCE NO. 2910, THE COMMUNITY DEVELOPMENT DIRECTOR HEREBY APPROVES THIS MAP ON THE ___ DAY OF _____, 2023 AND HEREBY ACCEPTS ALL WATER RIGHTS AS OFFERED, AN EASEMENT FOR SIDEWALK PURPOSES, AND AN EASEMENT FOR WATER PIPELINE PURPOSES AND ALL USES INCIDENTAL THERETO AS OFFERED HEREON.

IN WITNESS WHEREOF AND PURSUANT TO THE CITY COUNCIL’S DELEGATION OF AUTHORITY DESCRIBED ABOVE, THE COMMUNITY DEVELOPMENT DIRECTOR HEREBY SIGNS THIS CERTIFICATE, WHICH IS ATTESTED TO BY THE CITY CLERK OF SAID CITY AND THE CORPORATE SEAL OF SAID CITY OF OXNARD IS AFFIXED HERETO THIS _____ DAY OF _____, 2023.

ATTEST

ROSE CHAPARRO
CITY CLERK
CITY OF OXNARD

MAUREEN TAMURI
INTERIM COMMUNITY DEVELOPMENT DIRECTOR
CITY OF OXNARD

COUNTY RECORDER’S STATEMENT

DOCUMENT NO.: _____

FILED THIS ___ DAY OF _____, 2023 AT ____ _M.
IN BOOK ____ OF PARCEL MAPS AT PAGES ____ THROUGH ____,
AT THE REQUEST OF _____

MICHELLE ASCENCION
COUNTY RECORDER, COUNTY OF VENTURA

BY _____
DEPUTY COUNTY RECORDER

LAND DEVELOPMENT DESIGN COMPANY
2313 E. PHILADELPHIA STREET, UNIT F
ONTARIO CA 917861
(909) 930 1466

BEING A SUBDIVISION OF LOT 41 AND A PORTION OF LOT 40, TRACT NO. 4065-1, FILED IN BOOK 102, PAGE 60 THROUGH 66 OF MISCELLANEOUS RECORDS (MAPS), IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

MAY 2022

TAX COLLECTORS CERTIFICATE

I HEREBY CERTIFY THAT ALL CERTIFICATES AND SECURITY REQUIRED UNDER THE PROVISIONS OF SECTION 66492 AND SECTION 66493 OF THE SUBDIVISION MAP ACT HAVE BEEN FILED AND DEPOSITED WITH ME.

SUE HORGAN
COUNTY TAX COLLECTOR
COUNTY OF VENTURA

DATE BY: DEPUTY COUNTY TAX COLLECTOR

SIGNATURE OMISSION

THE SIGNATURE OF THE STATE OF CALIFORNIA, PRESENT OWNER OF A BUTTER’S RIGHTS OF INGRESS AND EGRESS TO OR FROM THE FREEWAY, HAVING BEEN RELINQUISHED, AS DISCLOSED BY DEED RECORDED JUNE 26, 1956, IN BOOK 1427, PAGE 421, OF OFFICIAL RECORDS OF VENTURA COUNTY, HAS BEEN OMITTED UNDER THE PROVISIONS OF SECTION 66436(a)(3)(A) OF THE SUBDIVISION MAP ACT, THEIR INTEREST IS SUCH THAT IT CANNOT RIPEN INTO A FEE TITLE AND SAID SIGNATURE IS NOT REQUIRED BY THE GOVERNING BODY.

THE SIGNATURE OF CITY OF OXNARD, PRESENT OWNER OF AN EASEMENT FOR PUBLIC SERVICES, PUBLIC UTILITY, SIDEWALK, LANDSCAPE, AND INCIDENTAL PURPOSES, AS DISCLOSED BY THE MAP FILED IN BOOK 102 OF MISCELLANEOUS RECORDS (MAPS) PAGE 60 THROUGH 66, RECORDS OF VENTURA COUNTY, HAS BEEN OMITTED UNDER THE PROVISIONS OF SECTION 66436(a)(3)(A) OF THE SUBDIVISION MAP ACT, THEIR INTEREST IS SUCH THAT IT CANNOT RIPEN INTO A FEE TITLE.

THE SIGNATURE OF SOUTHERN CALIFORNIA EDISON COMPANY, PRESENT OWNER OF AN EASEMENT FOR OVERHEAD AND/OR UNDERGROUND ELECTRICAL SUPPLY SYSTEMS AND COMMUNICATION SYSTEMS CONSISTING OF POLES, GUYS AND ANCHORS, CROSSARMS, WIRES, UNDERGROUND CONDUITS, CABLES, VAULTS, MANHOLES, HANDHOLES AND INCLUDING ABOVE-GROUND ENCLOSURES, MARKERS AND CONCRETE PADS AND INCIDENTAL PURPOSES, AS DISCLOSED BY DOCUMENT RECORDED SEPTEMBER 13, 1985 AS INSTRUMENT NO. 85-101015 OF OFFICIAL RECORDS OF VENTURA COUNTY, HAS BEEN OMITTED UNDER THE PROVISIONS OF SECTION 66436(a)(3)(A) OF THE SUBDIVISION MAP ACT, THEIR INTEREST IS SUCH THAT IT CANNOT RIPEN INTO A FEE TITLE AND SAID SIGNATURE IS NOT REQUIRED BY THE GOVERNING BODY.

THE SIGNATURE OF GENERAL TELEPHONE COMPANY, OWNER OF AN EASEMENT FOR OVERHEAD AND/OR UNDERGROUND ELECTRICAL SUPPLY SYSTEMS AND COMMUNICATION SYSTEMS CONSISTING OF POLES, GUYS AND ANCHORS, CROSSARMS, WIRES, UNDERGROUND CONDUITS, CABLES, VAULTS, MANHOLES, HANDHOLES AND INCLUDING ABOVE-GROUND ENCLOSURES, MARKERS AND CONCRETE PADS AND INCIDENTAL PURPOSES, AS DISCLOSED BY DOCUMENT RECORDED OCTOBER 14, 1985 AS INSTRUMENT 85-116453, OF OFFICIAL RECORDS OF VENTURA COUNTY, HAS BEEN OMITTED UNDER THE PROVISIONS OF SECTION 66436(a)(3)(A) OF THE SUBDIVISION MAP ACT, THEIR INTEREST IS SUCH THAT IT CANNOT RIPEN INTO A FEE TITLE AND SAID SIGNATURE IS NOT REQUIRED BY THE GOVERNING BODY.

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THE SIGNATURE OF CITY OF OXNARD, PRESENT OWNER OF AN EASEMENT FOR SIDEWALK, PIPELINE, AND INCIDENTAL PURPOSES, AS DISCLOSED BY DOCUMENT RECORDED MARCH 16, 1989. AS INSTRUMENT NO. 89-41020 OF OFFICIAL RECORDS OF VENTURA COUNTY, HAS BEEN OMITTED UNDER THE PROVISIONS OF SECTION 66436(a)(3)(A) OF THE SUBDIVISION MAP ACT, THEIR INTEREST IS SUCH THAT IT CANNOT RIPEN INTO A FEE TITLE AND SAID SIGNATURE IS NOT REQUIRED BY THE GOVERNING BODY.

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GROSS AREA: 1.78 ACRES

PARCEL MAP NO. 21-300-04
IN THE CITY OF OXNARD, COUNTY OF VENTURA
STATE OF CALIFORNIA

NOTARY ACKNOWLEDGMENT

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT

STATE OF CALIFORNIA }
COUNTY OF _____ }

ON _____, BEFORE ME, _____ ,
PERSONALLY APPEARED _____, WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY (IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.
WITNESS MY HAND:

NOTARY PUBLIC IN AND FOR SAID STATE PRINT NAME
MY COMMISSION NUMBER _____
MY COMMISSION EXPIRES: _____
MY PRINCIPAL PLACE OF BUSINESS IS IN _____ COUNTY.

NOTARY ACKNOWLEDGMENT

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT

STATE OF CALIFORNIA }
COUNTY OF _____ }

ON _____, BEFORE ME, _____ ,
PERSONALLY APPEARED _____, WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY (IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

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NOTARY PUBLIC IN AND FOR SAID STATE PRINT NAME
MY COMMISSION NUMBER _____
MY COMMISSION EXPIRES: _____
MY PRINCIPAL PLACE OF BUSINESS IS IN _____ COUNTY.

GROSS AREA: 1.78 ACRES
PARCEL MAP NO. 21-300-04
IN THE CITY OF OXNARD, COUNTY OF VENTURA
STATE OF CALIFORNIA

LAND DEVELOPMENT DESIGN COMPANY BEING A SUBDIVISION OF LOT 41 AND A PORTION OF LOT 40, TRACT NO. 4065-1, FILED
2313 E. PHILADELPHIA STREET, UNIT F IN BOOK 102, PAGE 60 THROUGH 66 OF MISCELLANEOUS RECORDS (MAPS), IN THE
ONTARIO CA 917861 OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.
(909) 930 1466 MAY 2022

BASIS OF BEARINGS

THE BEARING NORTH 42°47'22" WEST AS CALLED FOR ON THE CENTERLINE OF IVES AVENUE AS SHOWN ON TRACT NO. 4065-1 RECORDED IN BOOK 102, PAGES 60 THROUGH 66 OF MISCELLANEOUS RECORDS (MAPS) WAS USED FOR THE BASIS OF BEARING FOR THIS MAP.

LEGEND

- (R1) TRACT 4065-1 (102 MR 63)
(R2) INSTRUMENT NO. 88-125591, RECORDED ON AUGUST 30, 1988.
INDICATES RESTRICTED VEHICULAR ACCESS RIGHTS

ABBREVIATION

- IP IRON PIPE
M,R MEASURED AND RECORD
POR PORTION
MR MISCELLANEOUS RECORDS (MAPS)
PROP PROPOSED
(R) RADIAL
CFR CALCULATED PER RECORDS
ESMT EASEMENT

ARC TABLE			
NO.	DELTA	RADIUS	LENGTH
C1	Δ=25°40'45" R1	34.50' M,R1	15.46' M,R1
C2	Δ=06°55'14" R1	26.50'	3.20'
C3	Δ=34°20'35" R1	26.50'	15.88'
C4	Δ=76°09'32" R1	26.50'	35.22'
C5	Δ=06°55'14" R1	26.50'	3.20'

SCALE 1"=30'

FOUND 1-1/2" I.P. TAGGED "RCE 20648" IN A SURVEY MONUMENT WELL PER R1.

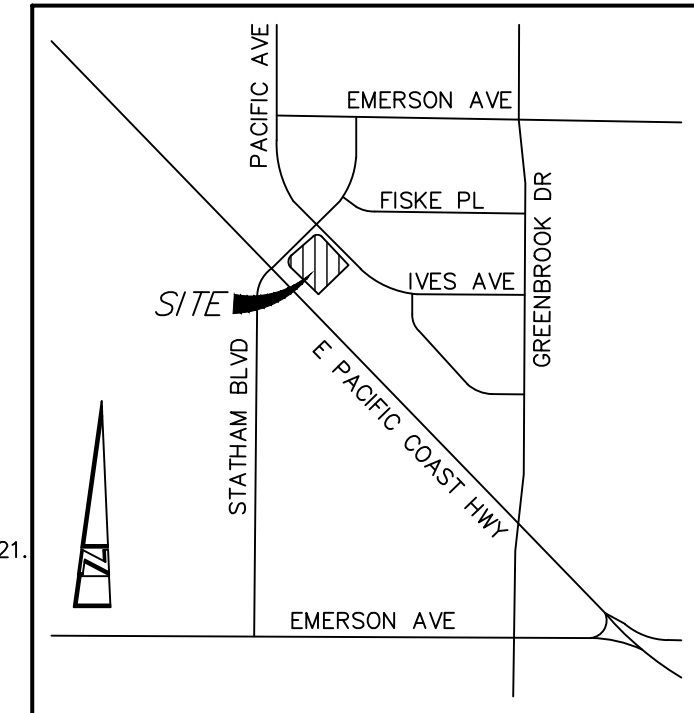
LINE TABLE		
NO.	BEARING	LENGTH
L1	N42°47'22"W R1	38.91' R1
L2	N 47°12'38" E	26.50'
L3	N 42°47'22" W	54.18'
L4	N 47°12'38" E	70.00'
L5	N 42°47'22" W	20.00'
L6	N 47°12'38" E	10.00'
L7	N 42°47'22" W	5.00'
L8	N 47°12'38" E	20.50'
L9	N 47°12'38" E	30.50'
L10	N 03°04'20" E	20.83'
L11	N 42°47'22" W	9.88'
L12	N 87°47'22" W	32.69'
L13	N 42°47'22" W	72.00'
L14	N 42°47'22" W	42.00'
L15	N 87°47'22" W	21.21'
L16	N 02°12'38" E	21.21'
L17	N 47°12'38" E	2.50'
L18	N 47°12'38" E	2.50'
L19	N 42°47'22" W	10.00'
L20	N 42°47'22" W	15.00'

EASEMENT NOTES

- ① CITY OF OXNARD, HOLDER OF AN EASEMENT FOR PUBLIC SERVICES, PUBLIC UTILITY, SIDEWALK, AND INCIDENTAL PURPOSES, RECORDED IN MISCELLANEOUS RECORDS (MAPS) FILED IN BOOK 102, PAGE 60 THROUGH 66.
- ② SOUTHERN CALIFORNIA EDISON COMPANY, HOLDER OF AN EASEMENT FOR OVERHEAD AND/OR UNDERGROUND ELECTRICAL SUPPLY SYSTEMS AND COMMUNICATION SYSTEMS CONSISTING OF POLES, GUYS AND ANCHORS, CROSSARMS, WIRES, UNDERGROUND CONDUITS, CABLES, VAULTS, MANHOLES, HANDHOLES AND INCLUDING ABOVE-GROUND ENCLOSURES, MARKERS AND CONCRETE PADS AND INCIDENTAL PURPOSES, RECORDED SEPTEMBER 13, 1985 IN OFFICIAL RECORDS AS NO. 85-101015.
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- ⑤ CITY OF OXNARD, HOLDER OF AN EASEMENT FOR SIDEWALK, PIPELINE, AND INCIDENTAL PURPOSES, RECORDED MARCH 16, 1989 IN OFFICIAL RECORDS AS INSTRUMENT NO. 89-41020.
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- ⑦ ABUTTER'S RIGHTS OF INGRESS AND EGRESS TO OR FROM THE FREEWAY, HAVE BEEN RELINQUISHED IN DOCUMENT RECORDED JUNE 26, 1956, IN BOOK 1427 OF DEED, PAGE 421.
- ⑧ CITY OF OXNARD, HOLDER OF AN EASEMENT FOR LANDSCAPE AND INCIDENTAL PURPOSES, RECORDED IN MISCELLANEOUS RECORDS (MAPS) FILED IN BOOK 102, PAGE 60 THROUGH 66.

ENGINEER'S NOTES

- INDICATES MONUMENTS FOUND AS NOTED.
- SET LEAD AND TAG STAMPED "RCE 31653" IN SIDEWALK 0.50' FROM CORNER LOT INTO STREET RIGHT OF WAY ALONG LOT LINE PROLONGATION.
- SET 3/4" I.P. TAG STAMPED "RCE 31653" FLUSH (UNLESS OTHERWISE NOTED) AT ALL LOT CORNERS.
- SET 1-1/2" I.P. TAG STAMPED "RCE 31653"



VICINITY MAP
N.T.S.

GROSS AREA: 1.78 ACRES

PARCEL MAP 21-300-04,
IN THE CITY OF OXNARD, COUNTY OF VENTURA
STATE OF CALIFORNIA

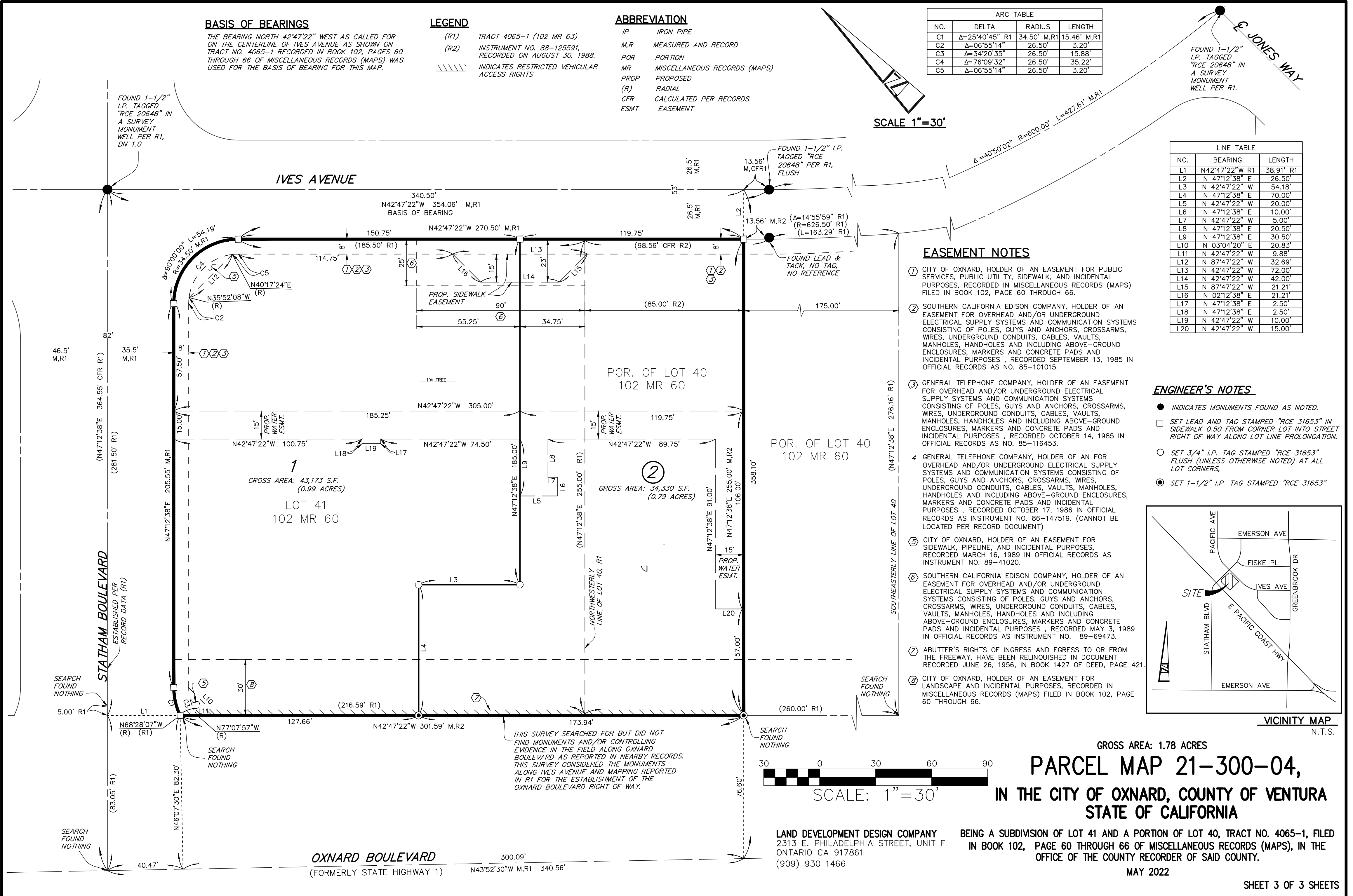


LAND DEVELOPMENT DESIGN COMPANY
2313 E. PHILADELPHIA STREET, UNIT F
ONTARIO CA 917861
(909) 930 1466

BEING A SUBDIVISION OF LOT 41 AND A PORTION OF LOT 40, TRACT NO. 4065-1, FILED IN BOOK 102, PAGE 60 THROUGH 66 OF MISCELLANEOUS RECORDS (MAPS), IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

MAY 2022

SHEET 3 OF 3 SHEETS



MEMORANDUM



May 2, 2023

TO: City Council

FROM: Maureen Tamuri, Interim Community Development Director

SUBJECT: Notice of Pending Approval - Final Map No. 21-300-04 for the 1600 Ives Avenue subdivision. Filed by Hassan Amirsadeghi, Habitat Properties, 10717 Wilshire Boulevard, Unit 607, Los Angeles, California 90024

In accordance with Ordinance 2910, the City Council will receive notification at its regular scheduled meeting of April 18, 2023 that the Community Development Director intends to approve PZ 21-300-04, Final Map No. 21-300-04 for the 1600 Ives Avenue subdivision, a 1.78 acre developed, commercially zoned property that will be divided into two parcels (Parcel 1 is 0.99 acres and Parcel 2 is 0.79 acres) and construction related public improvements within ten business days following the April 18, 2023 City Council meeting.

On July 28, 2022, the City Council approved Tentative Parcel Map No. 21-300-04 for the 1600 Ives Avenue Subdivision. Tentative Parcel Map No. 21-300-04 included the subdivision of a developed parcel into two lots and associated infrastructure improvements.

The subject final map was reviewed for conformance with the City's conditions of approval and the state Subdivision Map Act (SMA). The City's engineer has certified that the subject map complies with the Planning Commission and City Council Resolutions which approved the Tentative Parcel Map for this subdivision and complies with the provisions of the SMA.

The Community Development Director's action may be appealed to the City Council pursuant to the appeal procedures set forth in Section 15-25 of the Oxnard City Code. Questions concerning this pending action can be directed to Jay Dobrowalski, Planning Supervisor, by calling 805-385-3948 or via email at Jay.Dobrowalski@oxnard.org.

Verification of Status

For Maps and Improvement Plans

Community Development - Engineering



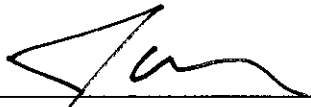
Final Map for Parcel Map Number 21-300-04

Project Location:

Southernmost corner of Ives Avenue and Statham Blvd.

- ☒ Map requires subdivision improvement agreement.
- ☐ The Development Services Program does not require improvement plans for this development.
- ☒ This Program has reviewed the improvement plans and found them acceptable. Based on our review, we believe these plans comply with the resolution of the Planning Commission and the City Council approving the tentative map for this development.
- ☒ This Program has reviewed the Map and Title Sheet and found them acceptable. Based on our review, we believe the map complies with the resolution of the Planning Commission and the City Council approving the tentative map for this development and also with the Subdivision Map Act of the State of California.
- ☒ The Map has been signed.

DATE: 4/11/2023



Jeff Pengilley, Assistant Director/City Engineer
Community Development Department



CITY COUNCIL AGENDA REPORT
INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. J.6

DATE: May 2, 2023
TO: City Council
FROM: Michael Wolfe, Public Works Director, (805) 385-8055, michael.wolfe@oxnard.org
SUBJECT: Proposed User Fees for Group Picnic Site Reservations within CFD Number 7.

RECOMMENDATION

That the City Council adopt a resolution establishing new user fees for two new picnic areas built within the Community Facilities District Number 7, Wagon Wheel.

(Finance and Governance Committee approved 2-0.)

BACKGROUND

On July 24, 2018, the City of Oxnard (the "City") passed Resolution No. 15164, adopting park reservation fees. The fees include a refundable security deposit and a fee to cover City costs incurred for the public's reservation and personal use of certain park facilities.

DISCUSSION

Conditions of Approval for the Wagon Wheel Development, located at the northern end of Oxnard Blvd. immediately adjacent to the 101 freeway, required the construction of certain park facilities that include picnic tables, trash cans, and shade structures. These facilities were completed in 2021 and can be used by the general public. Please see the attached map/aerial for the two locations, Area 1 and Area 2. Staff has received several requests to rent these spaces and Wagon Wheel residents have expressed concerns regarding the unregulated usage of the sites. By making these sites reservable, Staff will be able to accurately track usage, recover a portion of the costs for maintaining and administering these areas, and provide reservation information to Code Enforcement which will ensure groups are properly following City park rules.

As a means to define the initial cost to rent these two new areas, staff is using the rental costs for existing similar facilities in the City. For comparison, the "BBQ AREA RENTAL" Group rate for Riverpark, as outlined in the City's Fee Comparison Report presented to the City Council in 2018 was selected.

The larger of the two areas (Area 1) has one less table than other City park facilities designated within the "BBQ AREA RENTAL" Group rate for Riverpark and does not contain a BBQ grill but otherwise provides similar features to the public as the reservable sites in Riverpark. Due to the slightly reduced capacity and lack of a BBQ feature, Area 1 is recommended to be assessed a slightly reduced fee in comparison to the Riverpark Group reservation rate. The reduced capacity and lack of similar amenities at this facility support a reduced fee, because the site will require less maintenance and administrative oversight to process reservations for this specific park facility.

The smaller of the two areas (Area 2) has one more table than other City park facilities designated within the "BBQ AREA RENTAL" Single rate for Riverpark and does not contain a BBQ grill. While the site lacks a BBQ grill, it does allow for greater capacity and, as such, is recommended to be assessed the same fee as the Riverpark Single reservation rate. The following table illustrates the recommended reservation rates. The similarity between these two park facilities

support the same assessed fee for both locations, because the maintenance needs and administrative oversight to process reservations for this specific park facility are the same.

Site	Recommended Rate	Corresponding Riverpark Site Rate	Reason for difference
Wagon Wheel Picnic Area 1	\$30/day + \$50 Refundable Deposit	“Group” Rate \$50/day + \$50 Refundable Deposit	Lack of BBQ feature and 10 person lower capacity requiring reduced maintenance and administrative oversight
Wagon Wheel Picnic Area 2	\$15/day	“Single” Rate \$15/day	N/A

These recommended fees, if approved, will be added to the Master Fee Schedule as part of the City’s annual update performed during the Budget approval process in June 2023. Additionally, staff will be working on updating all Park fees, for future recommendations to the City Council. The current Park fees are outdated and need to be analyzed for consistency across the many parks throughout the City. As new amenities are added and old items are removed at existing parks, fees need to be reviewed. The fee analysis process takes time and may be added to a City-wide fee review process.

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 will be no impact to the General Fund. Revenues are expected to be below \$2,800 annually. It is anticipated that funds collected by the reservation fees will cover the expenses related to the impact created by the use of the park facilities.

COMMITTEE OUTCOME

The Finance and Governance Committee approved 2-0 on April 11, 2023, to approve the staff recommendation and to forward the item for Council approval.

Prepared by: Steve Howlett, Assistant Public Works Director

ATTACHMENTS

1. Proposed Resolution - User Rates for Wagon Wheel
2. Aerial Photo of Reservable Sites
3. Resolution 15164
4. 2018-07-24 Fee for Service Update and Adoption of New Fees Relevant Page
5. Special Districts Map
6. City of Oxnard Special Districts Legend

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF OXNARD ESTABLISHING USER FEES FOR THE
RENTAL OF WAGON WHEEL RESERVATION AREAS
NUMBERS 1 AND 2**

WHEREAS, the City of Oxnard has accepted the construction of two picnic shelters located within the Wagon Wheel development;

WHEREAS, Wagon Wheel Picnic Area 1 is located at 2680 Wagon Wheel Rd and features three tables for public use;

WHEREAS, Wagon Wheel Picnic Area 2 is located opposite Area 1 at 2680 Wagon Wheel Rd and features two tables for public use;

WHEREAS, Oxnard City Council Resolution No. 15,597 established a Master Fee Schedule for the City of Oxnard which includes User Fees for park facility rentals;

WHEREAS, Oxnard City Council Resolution No. 15,164 establishes fees for the rental of sites within the Riverpark neighborhood;

WHEREAS, the fees established by Oxnard City Council Resolution No. 15,164 were reviewed and set with the guidance and assistance of Revenue & Cost Specialists, LLC;

WHEREAS, Wagon Wheel Picnic Area 1 provides generally the same features and services to the public as do the “BBQ Area Rental” Group sites within Riverpark, albeit with slightly reduced capacity;

WHEREAS, Wagon Wheel Picnic Area 2 provides generally the same features and services to the public as do the “BBQ Area Rental” Single sites within Riverpark;

WHEREAS, due to the similar size and features, maintenance and administrative costs, the park reservation fees are similar to those that are incurred by the City for the Riverpark Single and Group BBQ Area Rentals available to the public;

Resolution No.

User Fees for the Rental of Wagon Wheel Reservation Areas Numbers 1 and 2

WHEREAS, the proposed site rental fees, for Wagon Wheel Picnic Areas 1 and 2, reflects costs incurred by the City for maintenance and administrative oversight of these two park rental facilities.

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

SECTION 1: The foregoing recitals are true and correct.

SECTION 2: Two new park reservation fees are approved for inclusion in the master fee schedule as follows:

Site	Rate
Wagon Wheel Picnic Area 1	\$30/day + \$50 Refundable Deposit
Wagon Wheel Picnic Area 2	\$15/day

PASSED AND ADOPTED THIS 2nd day of May, 2023, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

John C. Zaragoza, Mayor

ATTEST:

APPROVED AS TO FORM:

Rose Chaparro, City Clerk

Stephen M. Fischer, City Attorney

Wagon Wheel
Picnic Area 1

Wagon Wheel
Picnic Area 2

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO. 15,164

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
OXNARD ESTABLISHING AND ADJUSTING FEES AND
CHARGES FOR VARIOUS CITY SERVICES AND PERMITS

WHEREAS, on June 26, 2018, the City Council adopted financial management policies ("the policies") to be followed in the development and implementation of the City budget; and

WHEREAS, subsection B of section III of the policies requires annual review of activities supported by user fees and charges to determine costs and effect adjustments sufficient to recover actual costs, including the impact of inflation; and

WHEREAS, the City Of Oxnard has prepared a Cost of Services review with the guidance and assistance of Revenue & Cost Specialists, LLC, recognized experts in cost recovery studies; and

WHEREAS, such review has been performed to establish new fees and adjust current fees; and

WHEREAS, the new fees and adjustments to current fees included in this resolution will provide full cost recovery to Development Services, Public Safety (Fire, CUPA and Police), Cultural & Community Services, Maintenance Services, and Administrative Services (Treasurer, Information Technology) providing these services; and

WHEREAS, the adoption of this resolution is exempt from the California Environmental Quality Act (CEQA) as the establishment of fees for the purpose of meeting operating expenses, including employee wage rate and fringe benefits; and

WHEREAS, notice was given of the proposed adoption of this resolution and a public hearing was held thereon, as required by law.

NOW, THEREFORE, the City Council of the City of Oxnard finds that the fees adopted by this resolution are for the purpose of meeting operating expenses, including employee wage rates and fringe benefits, as set out in the fee schedule provided in Exhibit A.

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

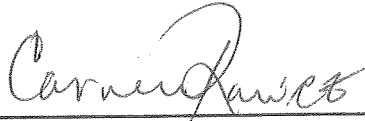
The fee schedule in Exhibit A is adopted, with the fees related to development projects taking effect sixty (60) days after adoption, and the remainder of the fees taking immediate effect.

PASSED AND ADOPTED this 24th day of July, 2018 by the following vote:

AYES: Councilmembers Ramirez, MacDonald, Perello and Madrigal.

NOES: None.

ABSENT: Mayor Flynn.



Tim Flynn, Mayor

ATTEST:



Michelle Ascencion, City Clerk

APPROVED AS TO FORM:



Stephen M. Fischer, City Attorney

**CITY OF OXNARD
FEE COMPARISON REPORT
FY 2016-2017**

REF #: S-237**TITLE: COLLEGE PARK EVENT RENTAL****CURRENT FEE**

\$400 fee + \$350 Security/Cleaning Deposit

RECOMMENDED FEE

\$1,000 fee + \$350 Security/Cleaning Deposit

REF #: S-238**TITLE: BBQ AREA RENTAL****CURRENT FEE**

Oxnard Beach:

Weekdays - \$100 + \$200 deposit Weekends - \$300 + \$200 deposit

Parking - \$1 per hour or \$5 per day

Del Sol Park:

Weekdays - \$150 + \$200 deposit Weekends - \$200 + \$200 deposit

Riverpark:

Single - \$15 Group - \$50 + \$50 Deposit

RECOMMENDED FEE

Oxnard Beach:

Weekdays - \$100 + \$300 deposit Weekends - \$450 + \$300 deposit

Parking - \$1 per hour or \$5 per day

Del Sol Park:

Weekdays - \$50 + \$300 deposit Weekends - \$150 + \$300 deposit

Riverpark:

Single - \$15 Group - \$50 + \$50 Deposit

REF #: S-239**TITLE: WEDDINGS ON THE BEACH PROCESSING****CURRENT FEE**

\$60 per event

RECOMMENDED FEE

\$95 per event

REF #: S-240**TITLE: JOLLY JUMP PERMIT****CURRENT FEE**

\$25 per permit

RECOMMENDED FEE

\$35 per permit

REF #: S-241**TITLE: FILMING MONITORING IN CITY PARKS****CURRENT FEE**

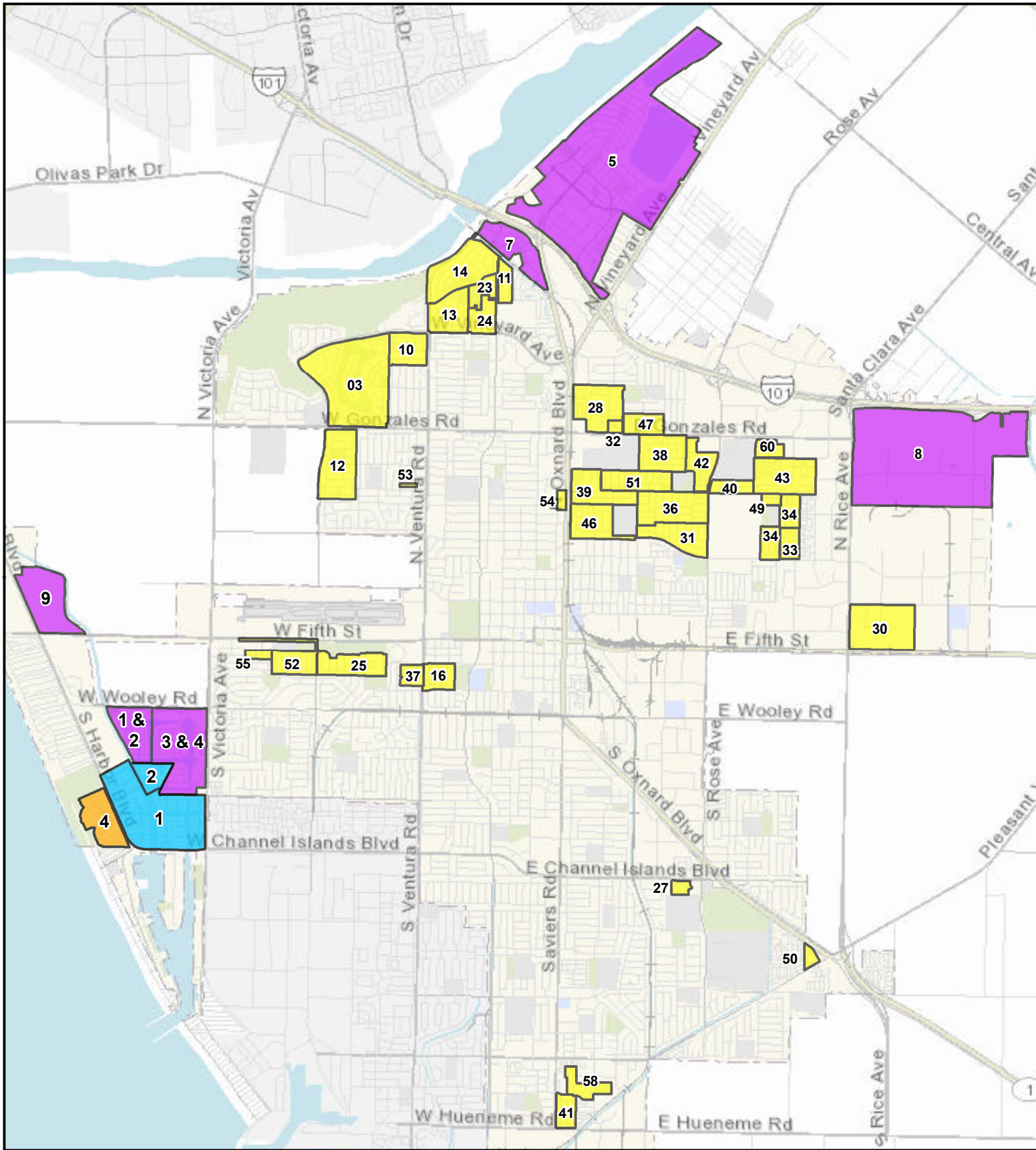
None

RECOMMENDED FEE

\$50 plus actual cost of staff for on-site monitoring plus \$500 deposit.

This is in addition to any Economic Development fees.

CITY OF OXNARD SPECIAL DISTRICTS



- | | |
|---|--|
| Maintenance Assessment District (District No.) | Community Facilities District (District No.) |
| Waterway Assessment District (Zone No.) | Landscape Maintenance District (District No.) |

CITY OF OXNARD – SPECIAL DISTRICTS

LANDSCAPE MAINTENANCE DISTRICT * COMMUNITY FACILITIES DISTRICTS
WATERWAYS ASSESSMENT DISTRICTS * MAINTENANCE ASSESSMENT DISTRICTS

COMMUNITY FACILITIES DISTRICTS	
1 & 2 – Westport at Mandalay Bay	7 – Wagon Wheel
3 & 4 – Seabridge at Mandalay Bay	8 – Sakioka Farms
5 – Riverpark	9 – Northshore at Mandalay Bay

LANDSCAPE MAINTENANCE DISTRICTS	
3 – Riverridge	37 – Pacific Cove
10 – Country Club	38 – Aldea Del Mar
11 – St Tropez	39 – El Sueno Promesa
12 – Standard Pacific	40 – Cantada
13 – Le Village	41 – Pacific Cove
14 – California Cove	42 – Cantabria/Coronado
16 – California Lighthouse	43 – Greenbelt
23 – Greystone	46 – Daily Ranch
24 – Vineyards	47 – Sycamore Place
25 – The Pointe	49 – Cameron Ranch
27 – Rose Island	50 – PV Senior Housing
28 – Harborside	51 – Pfeiler
30 – Haas Automation	52 – Wingfield
31 – Rancho De La Rosa	53 – Huff Court
32 – Oak Park	54 – Meadowcrest
33 – El Paseo	55 – Wingfield West
34 – Sunrise Pt/Sunset Cove	58 – Westwind
36 – Villa Santa Cruz	60 – Artisan

MAINTENANCE ASSESSMENT DISTRICT
4 – Mandalay Beach/Colony

WATERWAYS ASSESSEMENT DISTRICTS	
Zone 1 – Mandalay Bay Zone	2 – Harbour Island



CITY COUNCIL AGENDA REPORT

INFORMATION/CONSENT AGENDA

AGENDA ITEM NO. J.7

DATE: May 2, 2023

TO: City Council

FROM: Maureen Tamuri, Interim Community Development Director, (805) 385-7882, maureen.tamuri@oxnard.org

SUBJECT: Project Name: Ventura Road Electronic Billboard Project; Located on an approximately 1,000-square foot undeveloped site located on the north side of the U.S. 101 and immediately west of Ventura Road in the northern portion of the City of Oxnard. APN: N/A and along the Ventura Freeway (Highway 101) in The RiverPark Specific Plan area.

RECOMMENDATION

That the City Council:

1. Adopt Ordinance No. 3026 approving Planning and Zoning Permit No. 20-630-02 (Specific Plan Amendment No. 8 to the RiverPark Specific Plan) for text amendments to the RiverPark Specific Plan, subject to certain findings; and
2. Adopt Ordinance No. 3027 approving Planning and Zoning Permit No. 20-670-05 (Development Agreement No. A-8516), subject to certain findings.

BACKGROUND

Ordinance Nos. 3026 and 3027 were introduced to the City Council at its March 21, 2023 meeting. Following a public hearing, the Council introduced the ordinances for first reading by title only, waiving further reading.

At its meeting on April 13, 2023, the City Council made several changes to Exhibit A to Ordinance No. 3027 (the Development and Lease Agreement) that were acceptable to the applicant Outfront Foster Interstate, LLC. The specific changes to the Development and Lease Agreement are as indicated in Attachment 1. Generally, the changes added language to Section 7.2(b) of the Development and Lease Agreement specifically indicating that the City advertising spots on the proposed billboard cannot be used for political purposes. (Such use is already prohibited under well-established California case law.) In addition, Section 8 was amended to remove specific language, including language regarding commercial advertising and political advertising as it relates to the types of advertising that OFI could display on the billboard.

Because of the changes to Exhibit A to Ordinance No. 3027, the City Council did not adopt either Ordinance No. 3026 or Ordinance No. 3027 at its April 13, 2023 meeting. Instead, both ordinances are being considered for adoption at the May 2, 2023 City Council meeting. If adopted by the City Council on May 2, 2023, the ordinance will take effect thirty days later.

STRATEGIC PRIORITIES

This agenda item supports Economic Development strategy. The purpose of Economic Development strategy is to focus on the retention and expansion of Oxnard businesses by increasing the skills and employability of our local workforce, invite new business investments, and target site-based redevelopment opportunities.

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 Applicant shall pay to the City 30 percent of the Annual Net Revenue, with a minimum guarantee of \$150,000 annually. Revenue receipt is dependent on construction timing, but would be anticipated in Fiscal Year 2023-24 at the earliest.

COMMITTEE OUTCOME

This item was reviewed by the Planning Commission (Commission), therefore this item did not originate in Committee.

Prepared by: Joe Pearson II, AICP, Planning & Environmental Services Manager, Kenneth Rozell, Chief Assistant City Attorney

ATTACHMENTS

1. Proposed Changes to Development Agreement
2. Draft Ordinance Approving PZ Permit No. 20-630-02 (Specific Plan Amendment)
3. Draft Ordinance Approving PZ Permit No. 20-670-05 (Development Agreement)
4. Ventura Road Staff Report (Council) 4.13.23
5. Ventura Road Staff Report (Council) 3.21.23

PROPOSED CHANGES TO DEVELOPMENT AGREEMENT AND LEASE OF PROPERTY

These are the proposed changes Exhibit A to Ordinance No. 3027 (the Development Agreement and Lease of Real Property):

1. Add the following language at the end of Section 7.2(b) of the Development Agreement and Lease of Real Property:

“Notwithstanding any language in this Section 7.2(b) to the contrary, City Usage shall not include any “political advertising,” which means advertising that promotes or opposes any candidate for public office or promotes or opposes a ballot measure, referendum, bond issue, or any federal, state or local legislation, regulation, or other discretionary action.”

2. Amend Section 8 of the Development Agreement and Lease of Real Property to read as follows:

“8. Advertising. ~~The Billboard is not intended to provide a general public forum for purposes of communication, but rather to make use of property held by the City in a proprietary capacity in order to generate revenue. Except for any advertising or messages displayed on the Billboard at the request of the City (subject to the terms of this Agreement), all advertising to be displayed on the Billboard shall be strictly “commercial advertising.” As used in this Agreement, “commercial advertising” means advertising for a commercial or industrial business, product, good, service, or other commercial or industrial activity for a commercial or industrial purpose. In addition to the general limitation on Billboard advertising to strictly commercial advertising,~~ OFI may not display any message that: is inherently false, misleading, or libelous (i.e., speech that is incapable of being presented in a manner that is not misleading); promotes the sale or use of firearms or tobacco products, whether directly or indirectly; promotes adult entertainment, products, conventions, events, or websites; contains “obscene matter,” as that term is defined in local, California or federal law, including but not limited to any statements or words of an obscene, indecent or immoral character, or any picture or illustration of any human figure in such detail as to offend public morals or decency or any other matter or thing of an obscene, indecent or immoral character; ~~contains any “political advertising,” which means advertising that promotes or opposes any candidate for public office or promotes or opposes a ballot measure, referendum, bond issue, or any federal, state or local legislation, regulation, or other discretionary action;~~

contains language that presents a clear-and-present danger of causing riot, disorder, or other imminent threat to public safety, peace, or order. OFI shall, within 48 hours after written demand from City, at OFI's risk and expense, remove any advertising material or message that does not comply with the advertising criteria set forth in this Section, and which is not being disputed by OFI. If OFI fails to promptly cause the removal of such advertising, City may (but is not required to), without further process of law, cause the removal of the advertising. OFI shall reimburse City's costs of such actions upon demand and will bear the risk of any damage to the Billboard resulting from such actions. City may exercise such remedies without prejudice to any other remedies it may be entitled to exercise under this Agreement, at law or in equity. OFI agrees to ensure that businesses or organizations located within the City or residents of the City will be able to purchase advertising on the Billboard in such manner and at such rates as offered to businesses, organizations or persons located or residing outside of the City and that it will not permit any exclusivity contracts or arrangements with advertisers that would violate this covenant."

ORDINANCE NO. 3026

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD APPROVING PLANNING AND ZONING PERMIT NO. 20-630-02 (SPECIFIC PLAN AMENDMENT NO. 8 TO THE RIVERPARK SPECIFIC PLAN) TO AMEND THE TEXT WITHIN THE RIVERPARK SPECIFIC PLAN. FILED BY LARS SKUGSTAD, 1111 BROADWAY, SUITE 1515, OAKLAND, CA 94607 (THE “APPLICANT”) ON BEHALF OF THE CITY OF OXNARD (THE “PROPERTY OWNER”).

WHEREAS, on September 10, 2002 the City Council approved the entitlements for the RiverPark Specific Plan to guide future development on the 702-acre project site; and

WHEREAS, the City Council approved the first amendment request (PZ 02-630-05) on October 22, 2002, which amended the Specific Plan to include regulations for temporary uses; and

WHEREAS, the City Council approved the second amendment request (PZ 03-630-03) on July 27, 2004, allowing a minor change in the land use designation on a small parcel from Open Space to Commercial; and

WHEREAS, the City Council approved the third amendment request (PZ 09-630-09) on April 14, 2009, allowing a freeway-oriented pylon sign subject to approval of a Design Development Review permit (DDR) by the Development Services Director; and

WHEREAS, the City Council approved the fourth amendment (PZ 10-630-02) on June 14, 2011, and allows three freeway oriented monument signs subject to approval of a DDR, and an electronic digital display panel for the pylon sign, subject to subsequent approval of a Special Use Permit; and

WHEREAS, the City Council approved the fifth amendment (PZ 09-630-03) on June 5, 2012, which increased the maximum number of dwelling units from 2,805 to 3,043 units, and reduced the maximum amount of commercial development from 2,485,000 to 2,098,000 square feet; and

WHEREAS, the City Council approved the sixth amendment (PZ 18-630-01) on February 19, 2019, to amend the text of the RiverPark Specific Plan to allow two (2) monument signs in Planning Districts B and C in the specific plan area, subject to subsequent approval of a Development Design Review Permit; and

WHEREAS, the City Council approved the seventh amendment (PZ 20-630-01) on March 15, 2022, which allowed for the option to develop up to 1,025 additional residential units under the RiverPark Specific Plan, in exchange for a reduction of up to approximately 562,457 square feet of non-residential development potential in accordance with specified development scenarios; and

WHEREAS, the Planning Commission of the City of Oxnard has considered the proposed map and text amendment to Pages 3.7, 3.22, 5.9, and 5.23 of the RiverPark Specific Plan to allow for Freeway Adjacent Digital Display Billboards within the RiverPark Specific Plan (herein referred to as the “**Project**”); and

WHEREAS, on January 19, 2023, the Planning Commission of the City of Oxnard (**“Planning Commission”**) conducted a duly noticed public hearing where written and oral comments were received and reviewed to consider an application for Specific Plan Amendment No. 8 (PZ 20-630-02) in accordance with Chapter 16-575 of the Oxnard City Code; and

WHEREAS, on January 19, 2023, the Planning Commission reviewed all of the information provided in the staff report and considered the testimony given at the public hearing, including all written communications to the Planning Commission, as well as other pertinent information and deliberated the merits of the Project. The Planning Commission voted to deny the Project and not allow Freeway Adjacent Digital Display Billboards within the RiverPark Specific Plan, subject to the preparation of a written resolutions of denial to be considered at the Planning Commission meeting on February 2, 2023; and

WHEREAS, the Planning Commission found, after due study, deliberation and a duly noticed public hearing on February 2, 2023, and received and reviewed written and oral comments, presented by staff and the Applicant with a series of questions, and that the project, as amended, meets the criteria set out in Chapter 16-575 of the Oxnard City Code; and

WHEREAS, the Planning Commission adopted Resolution 2022-07 recommending that the City Council deny Planning & Zoning Permit No. 20-630-02 (Specific Plan Amendment); and

WHEREAS, on March 21, 2023, the City Council of the City of Oxnard conducted a duly noticed public hearing to consider the request to approve Planning and Zoning Permit No. 20-630-02 (Specific Plan Amendment), both as originally proposed by the Applicant and as recommended by the Planning Commission, in accordance with the OCC; and

WHEREAS, the City Council received written and verbal comments from the public; and

WHEREAS, the City of Oxnard as the Lead Agency, prepared a Mitigated Negative Declaration (MND) in accordance with CEQA and the CEQA Guidelines. The MND identified and discussed potential impacts, mitigation measures, monitoring requirements, and residual impacts for identified subject areas. The MND found that the implementation of the proposed Project would result in potentially significant impacts associated with biological resources, cultural resources, and noise on wildlife species. Mitigation measures have been required to reduce each potentially significant impact to less than significant. The mitigation measures that have been required within the MND would reduce potential significant impacts. These measures include (BIO-1) conducting a pre-construction survey for active bird nests, and (CUL-1 and CUL-2) monitoring and collecting, if necessary, any discovered archaeological and paleontological resources. After the implementation of the required mitigation measures, the potential significant impacts would be reduced to less than

significant. No remaining significant impacts would occur. With respect to Aesthetics, although less than significant lighting impacts would occur, the MND includes mitigation measures that are recommended to further reduce less than significant light impacts. These measures include: (AES-1 and AES-2) allowing for remote shut off in the event of malfunction and conducting illumination level verification tests; and

WHEREAS, pursuant to CEQA Guidelines §15074, the Final MND reflects the City's independent judgment and analysis. The City Council has independently reviewed and analyzed the Final IS/MND 22-02 prepared for the Project. The Final IS/MND 22-02 is an accurate and complete statement of the potential environmental impacts of the project. The Final IS/MND 22-02 was prepared under the direction of the City of Oxnard Planning Division and reflects its independent judgment and analysis of the environmental impacts.

WHEREAS, the City Council, after due study, deliberation and public hearing that the following circumstances exist:

1. As outlined in Section 6(b) and Attachment F of the January 19, 2023 Planning Commission Staff report "Staff Report", the proposed Specific Plan Text Amendment is in conformance with the 2030 General Plan and other adopted policies of the City of Oxnard;
2. As outlined in Section 6(c) of the Staff report, the proposed Specific Plan Text Amendment is a logical refinement and internally consistent with the adopted RiverPark Specific Plan; and
3. As determined in the Final IS/MND 22-02, the proposed Development Agreement will not adversely affect or be materially detrimental to adjacent land uses, buildings or structures or to the public health, safety or general welfare;
4. As outlined in Section 6(c - e) of the Staff report, the proposed RiverPark Specific Plan Amendment conforms to adopted City standards and constitutes good City planning.

WHEREAS, the Applicant agrees that at its own expense, to indemnify and defend the City of Oxnard and its agents, officers and employees from and against any claims, actions or proceedings to attack, set aside, void or annul the approval of this ordinance or any actions or proceedings, acts or determinations taken, done or made before the approval of this ordinance that were part of the approval process.

NOW, THEREFORE, the City Council of the City of Oxnard does hereby 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 Riverpark Specific Plan Amendment is internally consistent with all other provisions of the City of Oxnard 2030 General Plan.

SECTION 3. The City Council finds that the Riverpark Specific Plan Amendment 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 RiverPark Specific Plan Amendment 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 RiverPark Specific Plan Amendment is the best use for the subject project site.

SECTION 6. The City Council determines that the RiverPark Specific Plan Amendment is in the best interests and welfare of the City and its residents.

SECTION 7. Pursuant to Government Code Section 65863.5, the City Clerk shall mail a copy of this ordinance to the Assessor of Ventura County within thirty (30) days from the adoption of this ordinance; and

SECTION 8. In recommending adoption of this ordinance for the Specific Plan Amendment, the City Council finds and determines the project is in compliance with the California Environmental Quality Act because Final MND No. 22-02 was considered by the Planning Commission at the public hearing for the Development Agreement. The Final MND No. 22-02 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. With implementation of the IS/MND No. 22-02 mitigation measures, there is no substantial evidence that the proposed project will have a significant effect upon the environment.

SECTION 8. The RiverPark Specific Plan shall remain in full force and effect and shall apply to the property affected by this ordinance.

SECTION 10. Pursuant to Government Code Section 36933(c)(1), the City Attorney was designated to prepare, and the City Clerk published, a summary of this Ordinance, and a certified copy the Ordinance was posted in the Office of the City Clerk a minimum of five days before the City Council's adoption of the Ordinance.

SECTION 11. The City Clerk shall certify as to the adoption of this ordinance and shall cause the summary thereof to be published within fifteen (15) days of the adoption and shall post a certified copy of this ordinance, including the vote for and against the same, in the office of the City Clerk, in accordance with Government Code Section 36933. Ordinance No. 3026 was introduced on March 21, 2023, altered on April 13, 2023 and finally adopted on May 2, 2023 to become effective thirty days thereafter.

PASSED AND ADOPTED this 2nd day of May, 2023 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Rose Chaparro, City Clerk

John C. Zaragoza, Mayor

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney

EXHIBIT A

SPECIFIC PLAN AMENDMENT TEXT Changes

PROPOSED AMENDMENTS TO CITY OF OXNARD RIVERPARK SPECIFIC PLAN

KEY: <u>Blue Underlined</u> = Proposed Additions Red Strikethrough = Proposed Deletions
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3 COMMERCIAL MASTER PLAN

SECTION 3.5 BUILDING TYPE STANDARDS

Section 3.5.2 Standards for Each Building Type

- Type 1-C-A: Large Multistory Anchor
- Type 1-C-B: Large Pad Retail
- Type 1-C-C: Multistory Mini Anchor
- Type 1-C-D: Inline Retail
- Type 1-C-E: Inline Retail With Upper Story Office/Housing
- Type 1-C-F: Pad Restaurant/Retail
- Type 1-C-G: Drive Thru Commercial
- Type 2-C-A: Food and Wine Multistory
- Type 2-C-B: Food and Wine Demo Factory/Outlet Store
- Type 2-C-C: Food and Wine Pavilion/Office Building
- Type 3-C: Office Building
- Type 4-C: Hotel With Retail
- Type 5-C: Stand Alone Kiosk
- Type 6-C: Outparcel Commercial
- Type 7-C: Freeway Adjacent Digital Display Billboards

[. . .]

TYPE 7-C: Freeway Adjacent Digital Display Billboards

The following standards apply to lots for Freeway Adjacent Digital Display Billboards. If the lot contains other building types, the lot must comply with the minimum lot dimension standards required for that building type pursuant to this section, unless otherwise modified. Additional standards pertaining to Freeway Electronic Billboards can be found in Section 5.9 (Signage Standards) and the Oxnard City Code.

LOT DIMENSIONS

Lot Area Min: 1,000 SF Max: 15,000 SF

Lot Width Min: 10' Max: 300'

Lot Depth Min: 40' Max: 100'

SIZE AND SPACING

Billboard Face Display For allowable face size refer to the Oxnard City Code

Sign Height For allowable sign height refer to the Oxnard City Code

Setbacks Min: 0' (Freeway Adjacent Digital Display Billboards only)

Spacing For minimum spacing requirements refer to the Oxnard City Code

5 LANDSCAPE MASTER PLAN

5.5 EDGES AND BUFFERS STANDARDS

5.5.2 Design Concept for Edges and Buffers

5.5.2.1 The Ventura Freeway Frontage

Landscaping of RiverPark's frontage with the Ventura freeway at Planning Districts D, B and E shall be provided in a landscaped buffer zone. Landscaping in this area shall meet the requirements at two distinct scales: the scale of the freeway, and that of slower moving vehicles and pedestrians within RiverPark. Landscaping perceptible from the Ventura freeway will consist of a single row of 30-foot tall Mexican Fan Palms (at 30 feet O.C.) along the freeway frontage. These palms will clearly differentiate and identify RiverPark not only from the freeway but from the southern approach from Oxnard. For slower-moving vehicles and pedestrians, the zone will also be planted with an appropriate mix of native and indigenous grasses, perennials, shrubs, and trees. See Exhibit 5.AA for a typical cross-section. Properties developed with a Freeway Adjacent Digital Display Billboard in Planning Districts D, B and E shall be exempt from the requirements of this subsection.

5.9 SIGNAGE STANDARDS

[. . .]

5.9.3.11 Freeway Adjacent Digital Display Billboards

Freeway Adjacent Digital Display Billboards, as defined in the Oxnard City Code (OCC) shall be allowed in Planning Districts A and E, subject solely to the applicable regulations and procedures of OCC Chapter 9 Article IX. Advertising Signs.

ORDINANCE NO. 3027

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD APPROVING A DEVELOPMENT AGREEMENT AND LEASE OF PROPERTY (PLANNING AND ZONING PERMIT NO. 20-670-05) WITH OUTFRONT FOSTER INTERSTATE, LCC REGARDING PROPERTY LOCATED ON THE NORTH SIDE OF THE U.S. 101 AND IMMEDIATELY WEST OF VENTURA ROAD IN THE NORTHERN PORTION OF THE CITY OF OXNARD. (APN: N/A). FILED BY LARS SKUGSTAD, 1111 BROADWAY, SUITE 1515, OAKLAND, CA 94607 (THE "APPLICANT") ON BEHALF OF THE CITY OF OXNARD (THE "PROPERTY OWNER").

WHEREAS, on October 15, 2020, Lars Skugstad (the "Applicant" and/or "Permittee") submitted a request to approve Planning and Zoning Permit Nos. 20-500-06 (Special Use Permit), 20-670-05 (Development Agreement), and 21-660-03 (Street Vacation) to allow for the installation and operation of an electronic billboard on an approximately 1,000-square foot undeveloped site located on the north side of the U.S. 101 and immediately west of Ventura Road in the northern portion of the City of Oxnard; and

WHEREAS, the Planning Commission of the City of Oxnard ("Planning Commission") considered an application for Planning and Zoning Permit No. 20-670-05 ("Project"), a Development Agreement and Lease of Property between the CITY OF OXNARD, a municipal corporation of the State of California (the "City") and OUTFRONT FOSTER INTERSTATE LLC, a Delaware limited liability company ("OFI") (collectively referred to "Applicant" or "Developer" in the record of proceedings); and

WHEREAS, the Development Agreement and Lease of Property (DA) shall allow for the use of City property for the purpose of a Freeway Adjacent Digital Display Billboard. The agreement also outlines the required public benefits to be provided by the future development, including fiscal benefits to the City. The proposed DA is included in Exhibit A to this Ordinance and incorporated herein by this reference; and

WHEREAS, on January 19, 2023, the Planning Commission of the City of Oxnard ("Planning Commission") conducted a duly noticed public hearing where written and oral comments were received and reviewed to consider an application for a Development Agreement and Lease of Property (PZ 20-670-05) in accordance with Chapter 16-575 of the Oxnard City Code; and

WHEREAS, on January 19, 2023, the Planning Commission deliberated the merits of the Project and made a Motion of Intent to Deny the Project, subject to the preparation of a written Resolution of Denial to be considered at the Planning Commission meeting on February 2, 2023; and

WHEREAS, the Planning Commission adopted Resolution 2023-10 recommending that the City Council deny Planning & Zoning Permit No. 20-670-05 (Development Agreement); and

WHEREAS, on March 21, 2023, the City Council of the City of Oxnard conducted a duly noticed public hearing to consider both the request to approve Planning and Zoning Permit No. 20-670-05 (Development Agreement), both as originally negotiated with the Applicant and as recommended by the Planning Commission in accordance with the OCC; and

WHEREAS, the City Council received written and verbal comments from the public; and

WHEREAS, the City of Oxnard as the Lead Agency, prepared a Mitigated Negative Declaration (MND) in accordance with CEQA and the CEQA Guidelines. The MND identified and discussed potential impacts, mitigation measures, monitoring requirements, and residual impacts for identified subject areas. The MND found that the implementation of the proposed Project would result in potentially significant impacts associated with biological resources, cultural resources, and noise on wildlife species. Mitigation measures have been required to reduce each potentially significant impact to less than significant. The mitigation measures that have been required within the MND would reduce potential significant impacts. These measures include: (BIO-1 and BIO-2) conducting a pre-construction survey for active bird nests and conducting focused protocol nest survey for least Bell's vireo, and (CR-1 and CR-2) monitoring and collecting, if necessary, any discovered archaeological and paleontological resources. After the implementation of the required mitigation measures, the potential significant impacts would be reduced to less than significant. No remaining significant impacts would occur. With respect to Aesthetics, although less than significant lighting impacts would occur, the MND includes mitigation measures that are recommended to further reduce less than significant light impacts. These measures include: (AES-1 and AES-2) allowing for remote shut off in the event of malfunction and conducting illumination level verification tests; and

WHEREAS, pursuant to CEQA Guidelines §15074, the Final MND reflects the City's independent judgment and analysis. The City Council has independently reviewed and analyzed the Final IS/MND 22-03 prepared for the Project. The Final IS/MND 22-03 is an accurate and complete statement of the potential environmental impacts of the project. The Final IS/MND 22-03 was prepared under the direction of the City of Oxnard Planning Division and reflects its independent judgment and analysis of the environmental impacts.

WHEREAS, the City Council considered Final IS/MND 22-03 prior to making determinations on the Project; and

WHEREAS, the City Council finds, after due study, deliberation and public hearing, that the proposed Development Agreement and Lease of Property is consistent with the 2030 General Plan; and

WHEREAS, the pursuit of the Development Agreement and Lease of Property is a reasonable exercise of the City's police powers to ensure the continued health, safety, and

welfare of the public by public benefits for the residents of the City of Oxnard; and

WHEREAS, the City Council finds, after due study, deliberation and public hearing that the following circumstances exist:

1. As outlined in Section 6(b) and Attachment F of the January 19, 2023 Planning Commission Staff report "Staff Report", the proposed Development Agreement and Lease of Property is in conformance with the 2030 General Plan and other adopted policies of the City of Oxnard;
2. As determined in the Final IS/MND 22-03, the proposed Development Agreement of Lease of Property will not adversely affect or be materially detrimental to adjacent land uses, buildings or structures or to the public health, safety or general welfare;
3. As outlined in Section 6(c - e) of the Staff Report, the proposed Development Agreement and Lease of Property in association with the related projects conforms to adopted City standards and constitutes good City planning.

WHEREAS, the Applicant agrees that at its own expense, to indemnify and defend the City of Oxnard and its agents, officers and employees from and against any claims, actions or proceedings to attack, set aside, void or annul the approval of this ordinance or any actions or proceedings, acts or determinations taken, done or made before the approval of this ordinance 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 into the operative provisions of this Ordinance by this reference.

SECTION 2. The City Council finds that the Development Agreement and Lease of Property is internally consistent with all other provisions of the City of Oxnard 2030 General Plan.

SECTION 3. The City Council finds that the Development Agreement and Lease of Property will not be detrimental to the public interest, health, safety, convenience, or welfare of the City; and

SECTION 4. The City Council finds that the project site associated with the Development Agreement and Lease of Property 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 development that would be authorized for the project site by the proposed Development Agreement and Lease of Property is the best use for the subject project site.

SECTION 6. The City Council determines that the Development Agreement and Lease of Property is in the best interests and welfare of the City and its residents.

SECTION 7. In recommending adoption of this ordinance for the Development Agreement and Lease of Property, the City Council finds and determines the project is in compliance with the California Environmental Quality Act because Final MND No. 22-03 was considered by the Planning Commission at the public hearing for the Development Agreement and Lease of Property. The Final MND No. 22-03 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. With implementation of the MND No. 22-03 mitigation measures, there is no substantial evidence that the proposed project will have a significant effect upon the environment.

SECTION 8. Based on the findings set forth herein, the City Council approves Planning and Zoning Permit No. 20-670-05 (Development Agreement No. A-8516), Exhibit A, hereto attached.

SECTION 9. Planning and Zoning Permit No. 20-670-05 (Development Agreement No. A-8516) is approved pursuant to Exhibit A.

SECTION 10. Pursuant to Government Code Section 65863.5, the City Clerk shall mail a copy of this ordinance to the Assessor of Ventura County within thirty (30) days from the adoption of this ordinance; and

SECTION 11. Pursuant to Government Code Section 36933(c)(1), the City Attorney was designated to prepare, and the City Clerk published, a summary of this Ordinance, and a certified copy the Ordinance was posted in the Office of the City Clerk a minimum of five days before the City Council's adoption of the Ordinance.

SECTION 12. The City Clerk shall certify as to the adoption of this Ordinance and shall cause the summary thereof to be published within fifteen (15) days of the adoption and shall post a certified copy of this ordinance, including the vote for and against the same, in the office of the City Clerk, in accordance with Government Code Section 36933. Ordinance No. 3027 was introduced on March 21, 2023, altered on April 13, 2023, and finally adopted on May 2, 2023 to become effective thirty days thereafter.

PASSED and ADOPTED this 2nd day of May 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Rose Chaparro, City Clerk

John C. Zaragoza, Mayor

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney

Ordinance No. 3027
Development Agreement (PZ 20-670-05)
Development Agreement No. A-8516
Page 6 of 6

EXHIBIT A
DEVELOPMENT AGREEMENT

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

City of Oxnard
305 West Third Street
Oxnard, California 93030
Attention: City Clerk

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

DEVELOPMENT AGREEMENT AND LEASE OF REAL PROPERTY

THIS DEVELOPMENT AGREEMENT AND LEASE OF REAL PROPERTY (“Agreement”) is made in Ventura County, California as of April 13, 2023 by and between the CITY OF OXNARD, a municipal corporation of the State of California (“City”) and OUTFRONT FOSTER INTERSTATE LLC, a Delaware limited liability company (“OFI”). The City or OFI may be referred to individually as a “Party” and collectively as the “Parties.”

RECITALS

A. The City and OFI entered into that certain Exclusive Negotiation Agreement (“ENA”) on June 19, 2019 regarding the lease of certain City property for freeway oriented digital billboards (“ENA Property”), which consists of that certain real property in the City of Oxnard, County of Ventura more particularly described in **Exhibit A** attached hereto and incorporated herein by this reference.

B. The City and OFI have entered into a First Amendment to the ENA dated November 13, 2019, a Second Amendment to the ENA, dated May 28, 2020, a Third Amendment to the ENA dated November 17, 2020, a Fourth Amendment to the ENA dated June 17, 2021, a Fifth Amendment to the ENA dated December 14, 2021, a Sixth Amendment to the ENA dated June 7, 2022 and a Seventh Amendment to the ENA dated December 6, 2022. As of the date of this Agreement, the ENA is still in full force and effect and OFI retains exclusive rights relating to the Property. Based upon the ENA, OFI has a legal or equitable interest in the ENA Property during the term of the ENA.

C. City is authorized, pursuant to Government Code sections 65864 through 65869.5 (the “Development Agreement Statute”) and City Council Resolution No. 10,488, to enter into binding development agreements with persons or entities with legal or equitable interests in real property located within the City in order to vest certain rights in the person or entity with the legal or equitable interest in such property.

D. City and OFI each mutually desire to enter into this Agreement to permit and ensure that a portion of the ENA Property, which consists of that certain real property in the City of Oxnard, County of Ventura more particularly described in **Exhibit B** attached hereto and incorporated herein by this reference (“Property”), is developed with a double-sided freeway oriented digital billboard (hereafter, the “Project”), and that such billboard is developed strictly

in accordance with the provisions of this Agreement, the Project Approvals (defined below), and associated entitlements.

E. The City has determined that it is in the best interests of City, and for the common benefit of the citizens residing in City, to enter into this Agreement with OFI for the construction, operation, maintenance, and repair of the Billboard (as that term is defined below) on the Property, subject to (i) OFI obtaining specific entitlements and approvals from Caltrans and the City, including a Specific Plan amendment and a Special Use Permit; and (ii) OFI agreeing to fully comply with all of the provisions of this Agreement, including the payment of specific financial considerations that are in the public interests.

F. To comply with the California Environmental Quality Act ("CEQA"), on March 21, 2023, at a duly noticed public hearing, the City Council adopted the Mitigated Negative Declaration (SCH #2022060700), as described more fully in Resolution _____, adopted a Mitigation, Monitoring, and Reporting Plan, and made the required CEQA findings.

G. On March 21, 2023, at a duly noticed public hearing, the City Council approved a Special Use Permit for the Project, contingent on City Council approval of this Agreement. Previously, the Planning Commission recommended that the City Council deny this Agreement by ordinance.

H. On March 21, 2023, the Oxnard City Council ("City Council"), having received the Planning Commission's recommendation, held a duly noticed public hearing and introduced the ordinance to approve this Agreement. On April 13, 2023 the City Council adopted Ordinance _____ approving the Agreement.

I. The Planning Commission of the City (the "Planning Commission") and City Council have each given notice of their intention to consider this Agreement, have each conducted the required public hearings thereon. While the Planning Commission did not recommend approval of this Development Agreement and the related environmental analysis and Special Use Permit, the City Council found that the provisions of this Agreement are consistent with the City of Oxnard General Plan for development within the City, City zoning ordinances, and the Specific Plan. The City Council has also specifically considered the impacts and benefits of the Project upon the welfare of the residents of the City and the surrounding region. The City Council has determined that this Agreement is beneficial to the residents of the City and is consistent with the present public health, safety and welfare needs of the residents of the City and the surrounding region.

NOW, THEREFORE, in consideration of the foregoing Recitals which are hereby incorporated into the operative provisions of this Agreement by this reference and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the City and OFI agree as follows:

AGREEMENT

1. **Definitions.** For purposes of this Agreement, unless a different meaning is clearly required, the following terms will have the following meanings and be capitalized throughout this Agreement:

1.1 “Annual Net Revenue” means all income actually received by OFI in connection with the sale of advertising space on the Billboard (net of any commissions paid by OFI to advertising agencies, not to exceed 16-2/3%). For the purposes hereof, any income described in this definition will not include the value of any in kind usage of the Billboard by the City.

1.2 “Applicable Rules” means the rules, regulations and official policies of the City which were in force as of the Effective Date (as defined below), including, but not limited to, the General Plan, the Specific Plan (as defined below) and entitlements for the Project including, but not limited to, the Special Use Permit.

1.3 “Billboard” shall mean that double-sided freeway-oriented digital billboard contemplated to be developed on the Property pursuant to the Applicable Rules. OFI shall be responsible for the construction, operation, maintenance, and repair of the Billboard, subject to the terms and conditions of this Agreement.

1.4 “Caltrans Permits” means all permits and approvals, if any, that OFI must obtain from Caltrans and subsequently assign to the City to construct, operate, maintain, and repair the Billboard in accordance with this Agreement.

1.5 “City Council” shall mean the City Council of the City.

1.6 “City Manager” shall mean the City Manager of the City.

1.7 “Effective Date” means the date on which the ordinance approving this Agreement, as required by Government Code section 65867.5, becomes effective.

1.8 “General Plan” means the City of Oxnard 2030 General Plan adopted in October of 2011 and updated in December of 2016.

1.9 “Hazardous Materials” means any and all pollutants, wastes, flammables, explosives, radioactive materials, hazardous or toxic materials, hazardous or toxic wastes, hazardous or toxic substances, carcinogenic materials or contaminants and all other materials governed, monitored, or regulated by any Federal, State or local Law or regulation, including the Comprehensive Environmental Response, Compensation and Liability Act, the Hazardous Substances Account Act, and/or the Resources Conservation and Recovery Act, together with asbestos, asbestos-containing materials, hydrocarbons, polychlorinated biphenyl (“PCB”) or PCB-containing materials, petroleum, gasoline, petroleum products, crude oil or any fraction, product or by product thereof.

1.10 “Hazardous Materials Laws” means all laws, codes, rules, orders, ordinances, directives, regulations, permits, or other requirements of federal, state, county,

municipal or governmental authorities having jurisdiction, now in force or which may hereafter be in force concerning the management, use, generation, storage, transportation, presence, discharge or disposal of Hazardous Materials.

1.11 “MAG” or “Minimum Annual Guarantee” has the definition given such term in Section 7.1(a).

1.12 “Off-site Outdoor Advertising Sign” means a general outdoor advertising sign that directs attention to a business, profession, commodity, service or entertainment which is conducted, sold or offered at a location other than on the same lot or parcel upon which the sign is located.

1.13 “Operational” refers to the time when the Billboard is fully capable, legally and functionally, of displaying advertising on the digital display.

1.14 “Operational Date” is the date when the Billboard is Operational.

1.15 “Periodic Review” shall have the meaning assigned to such term in Section 36.

1.16 “Planning Commission” shall mean the Planning Commission of the City.

1.17 “Rent” means the MAG described in Section 7.1 and, as applicable, Percentage Rent described in Section 7.2.

1.18 “Project Approvals” shall mean and refer to the Special Use Permit approved on March 21, 2023.

2. **Initial Term.** The “Initial Term” of this Agreement will begin on the Operational Date and will expire on the thirtieth (30th) year anniversary thereof. The Parties acknowledge that Government Code section 65868.5 requires the City to record this Agreement with the Ventura County Recorder’s Office no later than ten (10) days after the Parties enter into this Agreement and that the burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the Parties hereto, subject to the assignment provisions in Section 37.5 below.

3. **Tolling for Third Party Lawsuit.** If any third party files a lawsuit to challenge this Agreement, the City’s CEQA determination made in connection with its consideration of this Agreement and/or the Project Approvals (each, a “Third-Party Lawsuit”), OFI may request that the Initial Term be tolled during the pendency of the Third-Party Lawsuit by providing a written notice (“Tolling Notice”) to City within thirty (30) days after the commencement of the Third-Party Lawsuit, and said request shall be granted by City. The tolling of the Initial Term shall automatically begin upon City’s receipt of the Tolling Notice, and it shall end on the earliest of the following to occur: (A) the date on which a court issues a final judgment in the Third-Party Lawsuit and the expiration of all appeal period(s) following that judgment; (B) the date the Third-Party Lawsuit is dismissed; or (C) three (3) years from the date of issuance of the Tolling Notice.

4. **Tolling for Initiative or Referendum.** If the subject of an initiative or referendum petition would overturn, set aside, or substantially modify this Agreement, the other Project Approvals, or otherwise substantially impair the development of the Project, the Initial Term of this Agreement shall be tolled under this Section 4. The Term shall be automatically tolled beginning on the date that the initiative or referendum petition is submitted to the Ventura County elections official for signature verification, and ending on the date the last of the following occurs: (A) the date the County elections official determines the petition does not include a sufficient number of signatures; (B) the date the measure is voted on by the Council; or (C) the date of the election on the measure, if placed on the ballot. Notwithstanding any language in Sections 3 and 4 to the contrary, the total length of extension of the Initial Term shall not exceed three (3) years from the date the initiative or referendum petition is submitted to the Ventura County elections official for signature verification.

5. **Implementation and Development of the Project.**

5.1 **Permitted Uses.** OFI agrees that Property shall only be developed in accordance with this Agreement and the Project Approvals.

5.2 **Subsequent Action and Approval.** The City agrees not to unreasonably withhold, condition or delay any action or approval by the City which may be required by the Project subsequent to the execution of this Agreement.

6. **Vested Right to Develop the Project.** Subject to Section 9 below and the Applicable Rules, the City hereby grants to OFI the vested right to develop the Project on the Property in accordance with this Agreement and the Project Approvals. Other than the Project Approvals and this Development Agreement, development of the Project as described in this Agreement shall require no further discretionary approvals by the City. City and OFI intend to cause all development rights which may be required to develop the Project in accordance with the Project Approvals to be deemed vested in OFI for the Initial Term to the greatest extent permitted by law.

7. **Rent.**

7.1 **Rent.** Rent, as set forth in this provision, shall commence on the Operational Date.

(a) **Minimum Annual Guarantee (MAG).** Each year, OFI shall pay City the Minimum Annual Guarantee (the "MAG") in the initial amount of \$150,000 per year, starting on the Operational Date, in accordance with the terms set forth in this Section.

<u>Term</u>	<u>Rent</u>
<u>Years 1-30</u>	<u>\$150,000</u>

(b) Manner of Payment. An annual prorated share of the MAG is due and payable on a calendar quarter basis, commencing within forty-five (45) days of the Operational Date and within ten (10) days following the beginning of each calendar quarter occurring thereafter without notice, demand, offset or deduction. OFI shall remit the MAG to City at the address designated by City in writing to OFI for the payment of Rent. For any portion of the Initial Term that is less than a full calendar quarter, the MAG shall be prorated based on the number of days occurring during such calendar quarter and actual number of days in such calendar quarter.

(i) Late Charge. If OFI fails to pay any installment of MAG within ten (10) calendar days after the same is due and payable, such unpaid amount will be subject to a late payment charge equal to five percent (5%) of the unpaid amount in each instance; provided, however, OFI shall not be assessed with the foregoing late payment charge with respect to the first (1st) late payment in any consecutive twelve (12) month period unless and until OFI fails to make such payment to City within three (3) business days after written notice from City that it failed to receive such amounts within the time period set forth above. Following the first (1st) late payment in any calendar year, no notice by City shall be required for purposes of collecting a late payment charge. The late payment charge has been agreed upon by City and OFI, after negotiation, as a reasonable estimate of the additional administrative costs and detriment that City will incur as a result of any such failure by OFI, the actual costs thereof being extremely difficult—if not impossible—to determine. The late payment charge constitutes liquidated damages to compensate City for its damages resulting from such failure to pay, and OFI shall promptly pay such charge to City together with any unpaid interest

(ii) Default Interest. If any MAG is not paid within ten (10) calendar days following the due date, such unpaid amount will bear simple interest at the rate of 10% per year or the maximum permitted by law, whichever is lower (“Default Rate”) from the due date until paid. However, interest will not be payable on late charges incurred by OFI, nor on any amounts on which late charges are paid by OFI to the extent this interest would cause the total interest to be in excess of that which an individual is lawfully permitted to charge. Payment of interest will not excuse or cure any default by OFI.

(iii) Application of Payments. All payments received by City from OFI will be applied to the oldest obligation owed by OFI to City. No designation by OFI, either in a separate writing, on a check or money order, or otherwise will modify this Article 5 or have any force or effect.

7.2 Additional Consideration

(a) Percentage Rent. To the extent that the MAG for the 12-month period commencing on the Operational Date or anniversary of the Operational Date (“Agreement Year”) during the Initial Term is less than 30% of the Annual Net Revenue for that Agreement Year (the difference being referred to herein as “Percentage Rent”), OFI shall pay to City, in addition to the MAG, within thirty (30) days after the end of the relevant Agreement Year, and to the extent applicable, the Percentage Rent.

(i) Reports. OFI shall furnish to City an annual statement of Annual Net Revenue within thirty (30) days after the end of each Agreement Year. Such statement shall be in a form acceptable to City. Each statement shall be signed and certified to be correct by a duly authorized officer of OFI. OFI shall keep and make available at its local office at Outfront Media, 1520 N. Cahuenga Blvd., Los Angeles, California 90028 complete and materially accurate books of account, records, cash receipts and other pertinent data, in accordance with good accounting practices and in a form approved by City, showing the Annual Net Revenue, including without limitation, materially accurate records of every sale and other transaction made for any advertising display on the Billboard and any commissions paid by OFI pursuant to this Agreement. Such books of account, records, cash receipts and other pertinent data shall be kept for a period of no less than four (4) years after the end of each Agreement Year. The receipt by City of any statement, or any payment of Percentage Rent for any period, will not bind City as to the correctness of the statement or payment.

(ii) Inspection and Audit. City, at its sole option, will be entitled, at any time and from time to time during the Initial Term and during normal business hours and with prior written notice to OFI, to inspect, examine, copy and audit OFI's books, records and cash receipts as related to Annual Net Revenue. OFI shall cooperate fully with City and City's agents in making the examination. City, at its option, will also be entitled once during each Agreement Year and once after the termination of this Agreement, to cause an independent audit of such records to be performed by a certified public accountant designated by City, provided such accountant is not paid on a contingency fee basis. The audit will be conducted during usual business hours at OFI's office located at Outfront Media, 1520 N. Cahuenga Blvd., Los Angeles, California 90028, unless another location is mutually agreed upon. If the audit shows that there is a deficiency in the payment of any Percentage Rent, then OFI shall promptly upon notice pay the deficiency to City which payment will not require any penalty or other late fee. City will pay the costs of the audit unless the audit shows that OFI understated Annual Net Revenue by more than three percent (3%) in which case OFI will pay all reasonable out-of-pocket costs paid to third party consultants and incurred by City in connection with the audit.

(b) City Usage. City shall have the right to use 2 out of 16 spots (1 spot per face) for the Billboard (such usage "City Usage"). Content displayed on the Billboard in connection with City Usage shall be displayed (subject to the terms of this Agreement) during the operation of the Billboard in increments, at the times of day and otherwise in the same manner as the commercial advertising displayed by OFI on the Billboard. Subject to the terms of this Agreement, City may use such time to promote any purpose that City, in its sole discretion determines best serves the needs of the City and residents, including but not limited to advertising City events and programs. City will submit "camera ready" artwork to OFI, at no cost to OFI, for display purposes. City agrees that for any City Usage City will provide OFI with prior written notice of its desire for City Usage, City will provide OFI with the copy or text of such messages not less than ten (10) business days prior to the date such messages are to appear on the Billboard, and City Usage shall be limited to messages for the civic and public purposes described in this Section and will not be used directly or indirectly for any types of messaging or advertising which OFI would otherwise be able to sell to third parties in the ordinary course of OFI's business. City represents and warrants that all advertising materials and content supplied by City to OFI for display in connection with City Usage, (i) are owned or duly licensed by City and do not infringe or misappropriate the rights of any other person or entity, (ii) comply with all

applicable federal, state, and local laws, rules and regulations and any industry codes or rules by which the parties may be bound and do not contain any obscene, libelous, slanderous or otherwise defamatory materials or refer in an offensive manner to the gender, race or ethnicity of any individual or group; (iii) are not false; and (iv) do not infringe upon any copyright, trademark or other intellectual property or privacy right of any third party. City hereby agrees to indemnify, defend and save harmless OFI against any and all claims, liabilities, losses, damages, fees and expenses arising out of or in connection with the City Usage, including but not limited to any claim for defamation, or infringement of any copyright, trademark, or other intellectual property or privacy right and reasonable attorneys' fees and expenses incurred in defending any such claims. Notwithstanding any language in this Section 7.2(b) to the contrary, City Usage shall not include any "political advertising," which means advertising that promotes or opposes any candidate for public office or promotes or opposes a ballot measure, referendum, bond issue, or any federal, state or local legislation, regulation, or other discretionary action.

(c) Emergency Notifications. Without any offset in the City Usage described above and at no cost to the City and as further consideration for the use and occupancy of Property, Outfront shall make the Billboard available to Caltrans and the California Highway Patrol for purposes of "Amber Alerts" and for emergency or disaster notifications by local, state or federal agencies.

(d) Discount for Oxnard Auto Dealers and West Ventura County Business Alliance Members. For the Initial Term of this Agreement, Oxnard Auto Dealers and members of the West Ventura County Business Alliance shall receive a ten percent (10%) discount from the rates to advertise on the Billboard.

8. Advertising. OFI may not display any message that: is inherently false, misleading, or libelous (i.e., speech that is incapable of being presented in a manner that is not misleading); promotes the sale or use of firearms or tobacco products, whether directly or indirectly; promotes adult entertainment, products, conventions, events, or websites; contains "obscene matter," as that term is defined in local, California or federal law, including but not limited to any statements or words of an obscene, indecent or immoral character, or any picture or illustration of any human figure in such detail as to offend public morals or decency or any other matter or thing of an obscene, indecent or immoral character; contains language that presents a clear-and-present danger of causing riot, disorder, or other imminent threat to public safety, peace, or order. OFI shall, within 48 hours after written demand from City, at OFI's risk and expense, remove any advertising material or message that does not comply with the advertising criteria set forth in this Section, and which is not being disputed by OFI. If OFI fails to promptly cause the removal of such advertising, City may (but is not required to), without further process of law, cause the removal of the advertising. OFI shall reimburse City's costs of such actions upon demand and will bear the risk of any damage to the Billboard resulting from such actions. City may exercise such remedies without prejudice to any other remedies it may be entitled to exercise under this Agreement, at law or in equity. OFI agrees to ensure that businesses or organizations located within the City or residents of the City will be able to purchase advertising on the Billboard in such manner and at such rates as offered to businesses, organizations or persons located or residing outside of the City and that it will not permit any exclusivity contracts or arrangements with advertisers that would violate this covenant.

9. **Subsequent Applicable Rules.** Rules, regulations and official policies of the City, including but not limited to the General Plan, the Specific Plan, zoning and other development regulations adopted after the Effective Date of this Agreement (“Subsequent Applicable Rules”) shall not be applicable to or binding upon the Project unless they are otherwise expressly allowed by this Agreement or are consented to in writing by OFI. The City shall not require OFI to obtain any approvals or permits for the development of the Project other than those permits or approvals which are required by the Applicable Rules. This Agreement will bind the City to the terms and obligations specified in this Agreement.

10. **No Conflicting Enactments.** The City shall not enact rules, regulation, ordinances or other measures which limit or control the development of any part of the Project which is inconsistent or in conflict with this Agreement.

11. **Moratorium or Initiative Measures.** OFI and the City intend that no moratorium or other limitation (whether relating to the rate, timing or sequence of the development of the Project and whether enacted by initiative or otherwise) affecting building permits or other entitlements shall apply to the Project to the extent such moratorium or other limitation is inconsistent with or conflicts with this Agreement.

12. **Legal Challenges.** City agrees to cooperate with OFI in all reasonable manners in order to keep this Agreement in full force and effect. Notwithstanding the preceding sentence, in the event of any legal action instituted by a third party or other government entity or official challenging the validity of this Agreement, the City and OFI agree to cooperate in defending such action, with OFI to indemnify the City pursuant to this Agreement. In the event of any litigation challenging the effectiveness of this Agreement or any portion thereof, this Agreement shall remain in full force and effect while such litigation, including any appellate review, is pending, unless a court of competent jurisdiction orders otherwise.

13. **Events of Default; Early Termination.**

13.1 **Defaults by OFI.** OFI will be in default under this Agreement (“Default”) upon occurrence of any of the following:

(a) OFI is at any time late in the payment of Rent or any other monetary sum called for by this Agreement and fails to make payment within thirty (30) days following a written notice to cure from City to OFI; or

(b) OFI fails to keep and perform any of its other covenants or agreements contained in this Agreement and such failure continues for more than thirty (30) days after a written notice to cure from City to OFI specifying, the obligation which OFI has failed to perform. Where it will reasonably take OFI more than thirty (30) days, as calculated from receipt of written notice from the City to cure the default and come into compliance with applicable covenants or agreements, the 30-day period shall be extended for a reasonable time to allow OFI to come in to compliance and OFI shall be in Default under this Agreement if it has failed to commence such cure within such 30-day period and has failed to diligently pursue completion of such cure; or

(c) After receipt of a written notice to cure from the City, OFI fails to cure within thirty (30) days and abandons and ceases to use the Property OFI; or

(d) The Billboard is not Operational by the one (1) year anniversary of the later of: (i) OFI's receipt of approval from Caltrans for the Caltrans Permits, and (ii) OFI's receipt of all other approvals, permits and entitlements and associated CEQA review from the City and any other relevant responsible agencies for construction and other work related to the Billboard. The one (1) year anniversary shall, however, be tolled in the event of the filing of third party lawsuits, initiatives, or referenda, as specified in Sections 3 and 4.

13.2 City's Remedies for Default by OFI. Upon the occurrence and during the continuance of any Default identified in Section 13.1, in addition to any and all other rights or remedies of City hereunder, City will have the sole option to exercise the following rights and remedies:

(a) City may terminate this Agreement if OFI is in default and fails to cure as provided in Section 13.1(a)-(c), or is in default as provided in Section 13.1(d), including any applicable tolling period.

(b) Except as provided in subdivision (c) below, in the event of a default by OFI, City shall have the right to: (i) bring any proceeding in the nature of specific performance, injunctive relief, declaratory relief, or mandamus and/or; (ii) bring any action to compensate City for OFI's specific obligations to the City pursuant to this Agreement.

(c) In the event that a third party lawsuit, referendum, or initiative has been filed that triggers the tolling provisions in Sections 3 and 4 and such lawsuit, referendum, or initiative has not been resolved, dismissed, terminated, or otherwise completed within the three (3) year tolling period, the City's sole remedy for OFI's failure to make the Billboard Operational as provided in Section 13.1(d), shall be to terminate this Agreement.

13.3 City Remedies Cumulative. Each right and remedy of City provided for herein will be cumulative and will not preclude City from exercising any other rights or remedies provided for in this Agreement. No payment by OFI of a lesser amount than the Rent nor any endorsement on any check or letter accompanying any check or payment of Rent will be deemed an accord and satisfaction of full payment of Rent; and City may accept such payment without prejudice to City's right to recover the balance of such Rent or to pursue other remedies.

13.4 Default by City. City will not be in default under this Agreement unless City fails to perform obligations required of City within thirty (30) days after written notice is delivered by OFI to City specifying the obligation which City has failed to perform; provided, however, that if the nature of City's obligation is such that more than thirty (30) days are required for performance, then City will not be in default if City commences performance within such 30-day period and thereafter diligently prosecutes the same to completion. All obligations of City hereunder will be construed as covenants, not conditions.

13.5 OFI's Remedies for Default by City. Upon the occurrence and during the continuance of any Default by City identified in Section 13.4, OFI will have the sole option to exercise the following rights and remedies:

(a) OFI may terminate this Agreement if City is in default and fails to cure as provided in Section 13.4.

(b) In the event of a default by City, OFI shall have the right to: (i) bring any proceeding in the nature of specific performance, injunctive relief, declaratory relief, or mandamus and/or; (ii) bring any action to compensate OFI for City's specific obligations to OFI pursuant to this Agreement.

13.6 OFI Remedies Cumulative. Each right and remedy of OFI provided herein will be cumulative and will not preclude OFI from exercising any other rights or remedies provided for in this Agreement.

13.7 OFI's Early Termination Rights. OFI may terminate this Agreement effective 30 days after OFI gives the City written notice of termination, if any of the following circumstances occur:

(a) The view of the Billboard's display area from the portion of U.S. 101 adjacent to the Property is materially obstructed, and OFI did not cause the obstruction.

(b) OFI cannot safely use the Property to renovate, operate, maintain, repair, or improve the Billboard because of a non-remediable condition, and OFI did not cause the condition.

(c) There is a material diversion of traffic from, or a material reduction or change in the directional flow of traffic on, the portion of U.S. 101 adjacent to the Property, and the diversion or disruption continues uninterrupted for at least six (6) consecutive months.

(d) Through no fault of its own, OFI cannot obtain or maintain the governmental permits required to construct, operate, maintain, and repair the Billboard, including the Caltrans Permits and City permits, or there is a legal challenge to such permits and approvals, including, but not limited to, any challenges under CEQA, and OFI elects, in its sole discretion, not to oppose such challenges, OFI may withdraw its applications for approval and terminate this Agreement.

(e) Use of the Billboard for its intended purpose is prevented or limited by law, or OFI is required by any court or other governmental entity, for reasons other than eminent domain, to remove the Billboard from the Property.

(f) The City is in default of this Agreement, and said default is not timely cured.

13.8 Consequential and Punitive Damages. Anything in this Agreement to the contrary notwithstanding, neither City nor OFI shall be liable to each other under or in

connection with this Agreement for any consequential or punitive damages and each party waives, to the full extent permitted by applicable laws, any claim for consequential or punitive damages, and any claim for loss of business or profits.

14. **Insurance.**

14.1 **Types of Policies.** During the Initial Term and, if OFI is removing the Billboard, during OFI's removal of the Billboard, at no cost to City except as otherwise contemplated by this Agreement, OFI shall procure and maintain the forms and amounts of insurance covering OFI's possession and use of the Property set forth below ("OFI's Insurance"). OFI's Insurance shall be primary to and not contributing with any other insurance, self-insurance or joint self-insurance maintained by City, and shall name the City as an additional insured.

14.2 **Commercial General Liability Insurance.** A policy of commercial general liability insurance (occurrence form) having a limit of Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) annual aggregate, providing coverage for blanket contractual liability (including OFI's indemnification obligations under this Agreement), products and completed operations liability, broad form property damage, and bodily injury (including wrongful death) and advertising injury coverage.

14.3 **Workers' Compensation and Employer's Liability Insurance.** Workers' compensation insurance, if required by law, which complies with all applicable state statutes and regulatory requirements, and employer's liability insurance coverage in statutory amounts. OFI shall also require any contractor utilized to perform any services or work at the Property pursuant to this Agreement to maintain such workers' compensation insurance and provide proof of such insurance prior to commencing any services or work at the Property.

14.4 **Other Insurance.** Any other form or forms of insurance as City may reasonably require from time to time, in form, amounts and for insurance risks against which a prudent OFI would protect itself, but only to the extent such risks and amounts are available in the insurance market at commercially reasonable costs.

15. **City's Right to Enter and Inspect the Property.** City and its authorized representatives will have the right to enter upon and inspect the Property at reasonable times (and on no less than forty-eight (48) hours' notice) to determine OFI's compliance with this Agreement.

16. **Notification of Incidents.** OFI shall endeavor to notify City within forty-eight (48) hours after OFI has actual knowledge of the occurrence of any accident or event on or about the Billboard, the Property, any portion thereof, or any improvements thereon and which OFI actually determines could give rise to a claim against City, City's insurance, OFI, or OFI's Insurance, except that OFI will not be so obligated with respect to any accident or event which could give rise to a claim under OFI's workers' compensation insurance. OFI's notice shall be accompanied by a copy of any report(s) relating to such accident or event.

17. **Nonexclusive Easements.** The City reserves the right for itself and others in the future to establish nonexclusive utility easements (including easements for construction,

maintenance, repair, replacement and reconstruction) over, under, through or on the Property in locations that will not interfere with OFI's use of the Property as contemplated by this Agreement. Under no circumstances shall the City permit the construction of any improvement on the Property, or adjacent City-owned properties, that will obstruct views of the Billboard from US 101. OFI will not be required to maintain or repair the utility easements unless OFI has caused the need to repair.

18. **Expiration of Agreement; Holding Over.** This Agreement will expire at the end of the Initial Term. If OFI holds over on the Property after the expiration of the Initial Term with the consent of City, such holding over will be construed to be only a tenancy from month to month, subject to all the covenants, conditions and obligations contained in this Agreement that applied at the expiration of the Initial Term. If OFI does hold over on the Property after the Initial Term, then OFI agrees to pay City as monthly rental an amount which is equal to 1/12th of the annual Rent paid by OFI to City during the last year of the Initial Term.

19. **Condition of Property.** The Property and all improvements thereon, are being leased to OFI in its current, existing, "AS IS" condition. City makes no representations or warranties of any kind, express or implied, written or oral, about any of the following: the physical condition of the Property; the suitability of the Property for OFI's anticipated use; any limitations on OFI's use of the Property; the costs of conducting OFI's business on the Property; or the condition of the soils or ground waters of the Property. By taking possession of the Property, OFI accepts the Property "AS IS" and acknowledges that the Property are satisfactory for OFI's purposes. OFI has ascertained the condition of the Property through its own independent investigation and has relied solely on that independent investigation when entering into this Agreement.

20. **Permitted Uses.** Subject to any City Usage, OFI has the exclusive right to display an Off-site Outdoor Advertising Sign on the Property consistent with **Exhibit C**. City will not authorize any other Off-site Outdoor Advertising Signs on the Property. OFI's right to construct an Off-site Outdoor Advertising Sign on the Property includes the right to the following uses: constructing, operating, maintaining, and repairing, the Billboard, and any utilities installed in connection with the Billboard; installing and maintaining utility wires, poles, cables, conduits, and pipes over or under the Property from the nearest accessible public right-of-way that support the permitted operations of the Billboard; and all rights of ingress and egress over the Property that OFI needs to access the Billboard. Subject to the City's sole and absolute discretion as property owner, as well as the regulator through any generally applicable permit process, OFI may sublease the Property for telecommunications facilities on the Billboard with the written approval of the City and with any such revenue considered part of Annual Net Revenues. Such telecommunications facilities shall be "stealth;" not affect the aesthetic or structural integrity of the Billboard in the City's discretion.

21. **Prohibited Uses.** Hazardous Substances. Neither OFI nor any of OFI's representatives or agents may use, handle, store, transport, treat, generate, release or dispose of any Hazardous Materials anywhere in, on, under or about the Property, the Billboard, or any improvements thereon. Notwithstanding the foregoing, OFI may use, handle, store, transport, treat, generate, release or dispose of any Hazardous Materials in such limited amounts as are customarily used to construct, operate, maintain, or repair the Billboard in accordance with this

Agreement, and so long as OFI is at all times in full compliance with all applicable environmental laws. OFI shall cause any and all Hazardous Materials brought onto, used, generated, handled, treated, stored, released or discharged by OFI or its authorized representatives on or under the Billboard, the Property, or any improvements thereon to be removed therefrom and transported for disposal in accordance with applicable laws, including Hazardous Materials Laws. City will have the right to enter the Property, or any improvements thereon, from time to time to conduct tests, inspections and surveys concerning Hazardous Materials and to monitor OFI's compliance with its obligations concerning Hazardous Materials and Hazardous Materials Laws (the City agrees that all such testing, inspections, surveys and monitoring will be at the City's expense unless the results of such testing, inspections, surveys or monitoring demonstrate that, with respect to OFI's use, handling, storage, transportation, treatment, generation, release or disposal of Hazardous Materials in, on, under or about the Property, the Billboard, or any improvements thereon, OFI has violated its obligations contained in this Section. OFI shall promptly notify City in writing upon its actual knowledge of: (a) any release or discharge of any Hazardous Material by OFI or its authorized representatives; (b) any voluntary clean-up or removal action instituted or proposed by OFI, (c) any enforcement, clean-up, removal or other governmental or regulatory action instituted or threatened against OFI, or (d) any claim made or threatened by any person against OFI, the Billboard, the Property, or any improvements thereon relating to Hazardous Materials or Hazardous Materials Laws. OFI shall also supply to City as promptly as possible, and in any event within five (5) business days after OFI receives or sends same, copies of all claims, reports, complaints, notices, warnings or asserted violations relating in any way to the Billboard, the Property, any portion thereof, or any improvements thereon or OFI's use thereof and concerning Hazardous Materials or Hazardous Materials Laws. In the event OFI institutes a cleanup or removal action, OFI shall provide copies of all work plans and subsequent reports submitted to the governmental agency with jurisdiction to City in a timely manner.

22. **Unlawful Activities.** OFI may not use or permit the Property to be used in any way that violates this Agreement or any valid and applicable statute, ordinance, regulation, rule, or order of any federal, state, or local governmental entity (including City). OFI may not maintain or commit, or permit the maintenance or commission of, any public or private nuisance as defined by any law applicable to the Property. OFI hereby waives any rights to compensation it may have if a court finds that the Billboard constitutes a public or private nuisance under any valid and applicable federal, state, or local law and for that reason orders OFI to remove or modify the Billboard.

23. **Encumbrances.** OFI may not encumber the Property or any part of the Property or the Billboard or any part of the Billboard, for any purpose, without City's prior written consent, which City may withhold for any reason. OFI shall keep the Property and the Billboard free of all liens and other encumbrances other than those, if any, to which City consents.

24. **Construction and Operation of Billboard.** Subject to any required permits and approvals, OFI shall construct, operate, maintain and repair the Billboard on the Property in accordance with the provisions of this Agreement. Upon completion of the Billboard, OFI shall provide City with a complete set of as-built drawings.

25. **Permitting Costs.** OFI will bear the costs associated with obtaining the Caltrans Permits and costs related to all other permitting and entitlements which are required for the construction and operation of the Billboard, including obtaining any Project Approvals (as defined in Section 1.18), for the construction, operation, maintenance, and repair of the Billboard and the Property and any environmental review of the Property.

26. **Plans and Specifications.** At no cost to City, OFI shall prepare complete plans and specifications for the construction of the Billboard consistent with **Exhibit C** to this Agreement, working closely with City to develop plans and specifications that are mutually acceptable (the "Plans"). OFI shall submit the Plans to City for final approval, which City will not unreasonably withhold, condition or delay. The Billboard shall be designed to comply with all applicable state, county, and City codes and regulations.

27. **Caltrans Permits.** OFI is responsible for ensuring that the Billboard complies with all requirements of California's Outdoor Advertising Act and Regulations if Caltrans determines that the Property fall within the scope of such law. As soon as practicable after the Effective Date, OFI shall apply for the Caltrans Permits, or, if necessary, engage in discussions with Caltrans to negotiate a Billboard Relocation Agreement that is mutually agreeable to both OFI and Caltrans which will permit OFI to seek all Caltrans Permits required in connection with the construction and operation of the Billboard contemplated by this Agreement. OFI agrees that upon request by the City, OFI will provide updates and any reasonably requested documentation relating to the negotiations with Caltrans for the Caltrans Permits and any status on the issuance of the Caltrans Permits. During the Initial Term, OFI shall perform all obligations under the Caltrans Permits at no cost to City. OFI shall have twelve (12) months from the Effective Date to obtain the Caltrans Permits, which period shall be subject to the three (3) year tolling period provided in Sections 3 and 4 in the event of a third party lawsuit, initiative, or referendum. If OFI has not received the Caltrans Permits at the end of such twelve (12) month period in addition to any tolling period as provided in Sections 3 and 4, and provided that OFI has diligently pursued the Caltrans Permits, City must provide OFI an extension of an additional six (6) months to obtain the Caltrans Permits. If, following such additional six (6) month extension period, OFI is still unable to obtain the Caltrans Permits, either the City or OFI can agree to another extension of time or terminate this Agreement.

28. **[Reserved]**

29. **Construction.** OFI shall begin design process and permitting process for the Billboard as soon as practicable after the Effective Date and shall diligently pursue construction to completion without unnecessary interruption so that the Billboard is Operational by the date established in Section 13.1(d). OFI will be excused, however, for any delays in beginning or completing construction that are caused by a Force Majeure Event, as defined in Section 33. OFI shall use reasonable diligence to avoid such delays and to resume work as promptly as possible after such a delay.

30. **Prevailing Wages.** The parties agree that any "construction, alteration, demolition, installation, or repair work" ("Improvement Work") shall comply with applicable prevailing wage policies as set forth in California Labor Code section 1720 et seq., any applicable federal law and applicable regulations thereto ("Prevailing Wage Laws"). OFI shall

defend, indemnify and hold harmless City and its officers, officials, employees, volunteers and agents from any claims arising out of or in any way connected to OFI's obligations regarding compliance with Prevailing Wage Laws.

31. **Maintenance.** OFI shall be responsible for all the on-going repair, maintenance, installation, and operation costs of the Billboard, and related improvements on the Property at no cost to the City. OFI shall also be responsible for the prompt removal of any graffiti from the Billboard within forty-eight (48) hours of receiving notice of the graffiti.

32. **Damage or Destruction to the Billboard.** This Agreement will continue in full effect if the Billboard is substantially damaged or destroyed in whole or part by any cause whether or not covered by the fire-and-casualty insurance OFI maintains, subject to the following:

32.1 The Rent thereafter due under this Agreement will abate from the date of the casualty until the repair or replacement of the Billboard is completed.

32.2 The City and OFI will mutually agree upon the repair or replacement of the Billboard, which such repair or replacement will use any proceeds of insurance maintained by the City or otherwise at the expense of the City. In connection with any election to repair the casualty, OFI and the City will promptly apply for, and diligently pursue the issuance of, any permits or approvals needed to repair or replace the Billboard. Within thirty (30) days after obtaining the necessary permits and approvals, the party which will perform such repair or replacement will begin work to repair or replace the Billboard and diligently pursue the completion thereof.

32.3 In the event of any damage or destruction which is covered by insurance, the City will promptly make proof of loss and proceed promptly to collect, or cause to be collected, all valid claims which the City may have against insurers or others based upon any such damage or destruction. Except as otherwise provided above, amounts received on account of any losses pursuant to insurance policies shall be used and expended for the purpose of fully repairing or reconstructing the portions of the Billboard which has been destroyed or damaged.

32.4 Notwithstanding anything herein to the contrary, if (a) the cost to repair or replace the damage or destruction of the Billboard exceeds 50% of its fair-market value immediately before it is damaged or destroyed; and (b) the damage or destruction occurs during the last five (5) years of the Initial Term, then the City may terminate this Agreement upon written notice to OFI without penalty.

33. **Force Majeure** As used in this Agreement "Force Majeure Events" and "Pandemic Events" have the following meaning:

33.1 "**Force Majeure Events**" mean, collectively: (1) governmental preemption or governmental shutdowns of business in connection with a national emergency, (2) work stoppages or other delays due to pandemics or other unforeseen circumstances, (3) conditions that prevent or delay construction and which are affected by war, pandemic, civil unrest or other international, national, state or municipal emergency or other cause, (4) act of

God, (5) Pandemic Events (as hereinafter defined) or (6) any other cause, similar or dissimilar, beyond the reasonable control of either party; and

33.2 **“Pandemic Events”** shall mean (1) governmental shutdowns of business in Ventura County in connection with the occurrence of a pandemic or other public health emergency, or (2) the issuance of “shelter-in-place” orders affecting Ventura County by one or more governmental authorities due to the occurrence of a pandemic or other public health emergency.

34. **Utilities.** At no cost to City, OFI shall provide and pay for all utility connections, utility equipment, and utility service required to construct, operate, maintain, repair, improve, or reposition the Billboard throughout the Initial Term (provided that City will pay for all such costs and expenses in connection with the construction and operation of the City’s Telecommunication Facilities, if applicable). OFI shall coordinate with City and the applicable utility companies for utility tie-ins and electrical power sources that OFI may need to construct and operate the Billboard.

35. **Removal of Billboard.** OFI shall be responsible for the removal of the Billboard, and other improvements from the Property and restore the Property to its condition immediately prior to the date that City delivered control of the Property to OFI (reasonable wear and tear, damage or destruction by the acts of God beyond the control of OFI, and damage caused by parties other than OFI (and its employees and contractors) excepted), at the expiration of the Initial Term of this Agreement, unless the City waives OFI’s removal obligation in writing. In the event this Agreement is otherwise terminated or cancelled prior to the expiration of the Initial Term, OFI shall remove the Billboard and other improvements installed by OFI from the Property and restore the Property to its condition immediately prior to the date that City delivered control of the Property to OFI (reasonable wear and tear, damage or destruction by the acts of God beyond the control of OFI, and damage caused by parties other than OFI (and its employees and contractors) excepted), unless the City waives OFI’s removal obligation in writing. Notwithstanding the above, OFI shall not be required to remove those portions of the Billboard and other improvements made by OFI on the Property that are more than eighteen (18) inches below grade. OFI shall cause the removal as required under this Section within thirty (30) days from the end of the Initial Term or from the date of early termination, whichever the case may be. If OFI does not timely remove the Billboard and other improvements as required by this Section, City may, but shall not be required to, remove or cause the removal of the Billboard and other improvements on the Property at OFI’s expense. OFI shall reimburse City within thirty (30) days of receipt of an itemized accounting of the cost for such removal and the restoration of the Property to its state immediately prior to the installation of the Billboard. City and OFI acknowledge and agree that OFI and its assigns shall be the exclusive owner and operator of the Billboard, and that all equipment comprising the Billboard shall remain the personal property of OFI and its assigns and shall not become fixtures of the Property. City shall have no right, title or interest in the Billboard or any component of the Billboard, notwithstanding the manner in which the Billboard is or may be physically attached, mounted or adhered to the Property.

36. **Taxes.** OFI shall pay without abatement, deduction, or offset any income taxes or possessory interest taxes levied on or assessed against the Billboard located on the Property, OFI’s equipment, fixtures, and personal property located on or in the Property, which are directly

attributable to this Agreement or OFI's use of the Property, whether belonging, owned, or chargeable against the City. OFI shall make all such payments directly to the charging authority prior to delinquency and before any fine, interest, or penalty becomes due or is imposed for OFI's non-payment. Following prior request by City, OFI shall provide City with proof of payment of such tax.

37. **Compliance Review.**

37.1 **Periodic Review.** Pursuant to Government Code section 65865.1, the City Manager shall, not less than once in every twelve (12) months, review the Project and this Agreement to ascertain whether or not OFI is in full compliance with the terms of this Agreement (the "Periodic Review").

37.2 **Review Procedure.** During a Periodic Review, OFI shall provide information reasonably requested by the City Manager that the Project is being developed in good faith compliance with the terms of this Agreement. Upon completion of a Periodic Review, the City Manager shall submit a report to the City Council setting forth the City Manager's findings. If, as a result of a Periodic Review, the City Council finds and determines on the basis of substantial evidence that OFI has not complied in good faith with the terms or conditions of this Agreement, the City shall issue a written "Notice of Noncompliance" to OFI specifying the grounds therefore and all facts demonstrating such noncompliance. OFI's failure to cure the alleged non-compliance within ninety (90) days after receipt of the notice, or, if such noncompliance is not capable of being cured within ninety (90) days, OFI's failure to initiate all actions required to cure such noncompliance within ninety (90) days after receipt of the notice, shall constitute a default under this Agreement on the part of OFI and shall constitute grounds for the termination of this Agreement by the City as provided for below.

37.3 **Termination or Modification for Non-Compliance.** Pursuant to Government Code Section 65865.1, if the City Council finds and determines, on the basis of substantial evidence, that OFI has not complied in good faith with the terms or conditions of this Agreement, the City Council may modify or terminate this Agreement. Any action by the City with respect to the termination or modification of this Agreement shall comply with the notice and public hearing requirements of Government Code section 65865.1 in addition to any other notice required by law. Additionally, the City shall give OFI written notice of its intention to terminate or modify this Agreement and shall grant OFI a reasonable opportunity to be heard on the matter and to oppose such termination or modification by the City.

37.4 **Modification, Amendment or Cancellation by Mutual Consent.** Pursuant to Government Code section 65868, this Agreement may be amended or canceled, in whole or in part, by mutual written consent of the City and OFI or their successors in interest. Public notice of the parties' intention to amend or cancel any portion of this Agreement shall be given in the manner provided by Government Code section 65867. Any amendment to the Agreement shall be subject to the provisions of Government Code section 65867.5.

37.5 **Inurement and Assignment.** This Agreement shall inure to the benefit of and bind the successors and assigns of the City and OFI and may be assigned by either the City or OFI to any party or parties pursuant to the requirements of this Section. The specific

rights and obligations of this Agreement shall be deemed covenants running with the land that concern and affect the Property. Prior to OFI's assignment of any rights, duties or obligations under this Agreement, OFI shall present such information to the City as will reasonably demonstrate to the City's satisfaction that the proposed assignee (the "**Assignee**") has the financial ability and experience to fulfill those specific rights, duties and obligations under the Agreement that the Assignee will assume. The City shall have the right to approve the proposed Assignee, provided that the City's approval may not be unreasonably withheld. Because this Agreement is a statutory Development Agreement, if City staff determine that they can recommend approval of the proposed Assignee, a public hearing before the Planning Commission and City Council will be necessary to approve the proposed amendment to this Agreement. If the City does not approve the Assignee, the City shall deliver notice to OFI of the reasons for the City's disapproval of the Assignee. Once such approved assignment or succession has occurred and the Assignee has agreed to accept the applicable obligations under this Agreement, OFI shall be released from its obligations under this Agreement assumed by the Assignee with respect to the Property, or portion thereof, so transferred. Notwithstanding anything herein to the contrary, OFI shall not be required to obtain the City's written consent prior to effecting a transfer of all or a portion of OFI's interests to OFI member agencies Foster Interstate, LLC and Outfront Media, LLC.

38. **Monetary Damages.** OFI and the City acknowledge that neither the City nor OFI would have entered into this Agreement if either were liable for monetary damages under or with respect to this Agreement or the application thereof. Both the City and OFI agree and recognize that, as a practical matter, it may not be possible to determine an amount of monetary damages which would adequately compensate OFI for its investment of time and financial resources in planning to arrive at the kind, location, intensity of use, and improvements for the Project, nor to calculate the consideration the City would require to enter into this Agreement to justify such exposure. Therefore, the City and OFI agree that neither shall be liable for monetary damages under or with respect to this Agreement or the application thereof and the City and OFI covenant not to sue for or claim any monetary damages for the breach of any provision of this Agreement. This foregoing waiver shall not be deemed to apply to any fees, payments, reimbursements or other monetary amounts specifically required to be paid by OFI to the City pursuant to this Agreement.

39. **Specific Performance.** OFI has invested significant time and resources and performed extensive planning and processing of the Project in agreeing to the terms of this Agreement and will be investing even more significant time and resources in implementing the Project in reliance upon the terms of this Agreement and it is not possible to determine the amount of monetary damages that would adequately compensate OFI for such efforts. Damages would not be an adequate remedy if City fails to carry out its obligations under this Agreement, and that OFI shall have the right to seek and obtain specific performance as a remedy for any breach of this Agreement. The City's remedy to terminate or amend this Agreement in the event of OFI's uncured breach shall be sufficient in most circumstances.

40. **Administration of Agreement and Resolution of Disputes.** OFI shall at all times have the right to appeal to the City Council any decision or determination made by any employee, agent or other representative of the City concerning the Project or the interpretation and administration of this Agreement. All City Council decisions or determinations regarding

the Project or the administration of this Agreement shall also be subject to judicial review pursuant to Code of Civil Procedure section 1094.5, provided that, pursuant to Code of Civil Procedure section 1094.6, any such action must be filed in a court of competent jurisdiction not later than ninety (90) days after the date on which the City Council's decision becomes final.

41. **Recordation of this Agreement.** Pursuant to Government Code section 65868.5, the City Clerk shall record a copy of this Agreement in the Official Records of Ventura County within ten (10) days after the mutual execution of this Agreement.

42. **Constructive Notice and Acceptance.** Every person or entity who now or hereafter owns or acquires any right, title or interest in or to any portion of the Property is, and shall be, conclusively deemed to have consented and agreed to every provision contained herein, whether or not any reference to this Agreement is contained in the instrument by which such person acquired an interest in the Property.

43. **No Third-Party Beneficiaries.** This Agreement is made and entered into for the sole protection and benefit of the City, OFI and their respective successors and assigns. No other person or entity shall have any right of action based upon any provision of this Agreement.

44. **Miscellaneous.**

44.1 **Notices.** All notices, requests, demands, and other communications required or permitted under this Agreement shall be in writing and shall be (as elected by the person giving such notice) (i) hand delivered by messenger or courier service, (ii) by overnight delivery (including Federal Express), or (iii) by United States mail (postage prepaid), registered or certified, return receipt requested, addressed to the addresses set forth below. Each notice shall be deemed delivered (1) on the date delivered if by personal delivery, (2) on the date of delivery by the overnight delivery service if by overnight delivery, or (3) seventy-two (72) hours after deposit in the United States mail (postage prepaid) if by registered or certified mail. By giving to the other parties at least fifteen (15) days' written notice, the parties to this Agreement and their respective successors and assigns shall have the right from time to time and at any time during the term of this Agreement to change their respective addresses and each shall have the right to specify as its address any other address.

If to City: City of Oxnard
300 West Third Street
Oxnard, California 93030
Attention: City Manager

with a copy to: City of Oxnard
214 South C Street
Oxnard, California 93030
Attention: Community Development Director
Tel. No.: (805) 385 7877
Fax No.: (805) 385 7854

with a copy to: City of Oxnard
300 West Third Street
Oxnard, California 93030
Attention: City Attorney

If to OFI: Outfront Foster Interstate, LLC
2300 Contra Costa Blvd., Suite 330
Pleasant Hill, CA 94523
Attn: John B. Foster, President
Fax: (510)-832-7080

with a copy to: Outfront Media LLC
405 Lexington Avenue, 17th Floor
New York, NY 10174
Attn: General Counsel

with a copy to: Miller Starr Regalia
1331 North California Boulevard, Fifth Floor
Walnut Creek, CA 94596
Attn: Anthony Leones
Tel: (925) 941-3261
Fax: (925) 933-4126
Email: tony.leones@msrlegal.com

with a copy to: Wendel Rosen LLP
1111 Broadway, 24th Floor
Oakland, CA 94607
Attn: Matt Dambrov
Tel: (510) 834-6600
Fax: (510) 834-1928
Email: mdambrov@wendel.com

44.2 Severability. If any part of this Agreement is declared invalid for any reason, such invalidity shall not affect the validity of the remainder of the Agreement. The other parts of this Agreement shall remain in effect as if this Agreement had been executed without the invalid part. The City and OFI intend and desire that the remaining parts of this Agreement continue to be effective without any part or parts that have been declared invalid.

44.3 Entire Agreement; Conflicts. This Agreement represents the entire agreement between the City and OFI with respect to the subject matter hereof and supersedes all prior agreements and understandings, whether oral or written, between the City and OFI with respect to the matters contained in this Agreement. Should any or all of the provisions of this Agreement be found to be in conflict with any other provision or provisions found in the Applicable Rules or the Subsequent Applicable Rules, then the provisions of this Agreement shall govern and prevail.

44.4 Further Assurances. The City and OFI agree to perform, from time to time, such further acts and to execute and deliver such further instruments reasonably necessary to effect the intents and purposes of this Agreement, provided that the intended obligations of the City and OFI are not thereby modified.

44.5 Negation of Agency. The City and OFI acknowledge that, in entering into and performing under this Agreement, each is acting as an independent entity and not as an agent of the other in any respect. Nothing contained herein or in any document executed in connection herewith shall be construed as making the City and OFI joint venturers, partners or employer/employee.

44.6 Attorneys' Fees. In the event of any claim, dispute or controversy arising out of or relating to this Agreement, including an action for declaratory relief, the prevailing party in such action or proceeding shall be entitled to recover its court costs and reasonable out of pocket expenses not limited to taxable costs, including, but not limited to telephone calls, photocopies, expert witness, travel, and reasonable attorneys' fees and costs to be fixed by the court. Such recovery shall include, but not limited to, court costs, out of pocket expenses and attorneys' fees on appeal, if any. The court shall determine who is the "prevailing party," whether or not the dispute or controversy proceeds to final judgment. If the City or OFI is reasonably required to incur such out of pocket expenses and attorneys' fees as a result of any claim arising out of or concerning this Agreement or any right or obligation derived hereunder, then the prevailing party shall be entitled to recover such reasonable out of pocket expenses and attorneys' fees whether or not an action is filed.

44.7 Waiver. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought.

44.8 Estoppel Certificates. Within thirty (30) days following the receipt by City of a written request by OFI, the City shall execute and deliver to the requesting OFI a statement (an "estoppel certificate") certifying that (i) either this Agreement is unmodified and in full force and effect or there have been specified (date and nature) modifications to the Agreement, but it remains in full force and effect as modified; and (ii) either there are no known current uncured defaults under this Agreement or that the City alleges that specified (date and nature) defaults exist. The estoppel certificate shall also provide any other reasonable information requested. The failure to timely deliver a requested estoppel certificate shall constitute a conclusive presumption that this Agreement is in full force and effect without modification, except as may be represented by the requesting OFI, and that there are no uncured defaults in the performance of the requesting OFI, except as may be represented by the requesting OFI. The requesting OFI shall pay to City all reasonable administrative costs incurred by City in connection with the issuance of estoppel certificates under this Section prior to City's issuance of such certificates. Any such certificate may be and is intended to be relied upon by any person, including, but not limited to, the other Party, potential purchasers or lessees of all or any part of the Property, lenders or potential lenders.

44.9 Section Headings. The section headings contained in this Agreement are for convenience and identification only and shall not be deemed to limit or define the contents to which they relate.

44.10 Relationship of the Parties; Not Third-Party Beneficiaries. This Agreement does not create any relationship or association between City and OFI other than that of landlord and tenant, and it is expressly understood and agreed that City does not in any way nor for any purpose become a partner of OFI or a joint venturer with OFI in the conduct of OFI's business or otherwise; nor does this Agreement create between City and OFI the relationship of principal and agent. The parties do not intend to create any third-party beneficiaries to the Agreement.

44.11 Time of Essence. Time is of the essence of this Agreement, and all performances required hereunder shall be completed within the time periods specified. Any failure of performance shall be deemed as a material breach of this Agreement.

44.12 Counterparts. This Agreement and any modifications hereto may be executed in any number of counterparts with the same force and effect as if executed in the form of a single document.

45. Indemnification.

45.1 Definitions. For the purposes of this Section, the following definitions will apply:

(a) "Person" is to be interpreted broadly and includes OFI and OFI's directors, officers, employees, contractors, and agents; and City and City's elected officials, officers, employees, contractors, and agents.

(b) "Liabilities" means all liabilities, claims, demands, damages, and costs (including reasonable attorneys' fees and litigation costs through final resolution on appeal) that arise directly or indirectly from OFI's possession or use of the Property.

(c) "Occurrence" means (A) the death of, or injury to, any person; and (B) damage to, or destruction of, any real property, personal property (including intellectual property), or the environment (broadly interpreted to include the air, soil, soil vapor, surface water, groundwater, flora, and fauna on or about the Property).

45.2 General Indemnity. Except to the extent claims are caused by the negligence or willful misconduct of the City and its employees, agents and contractors, and not waived by OFI, OFI shall indemnify, protect, defend, and hold harmless City and its elected officials, officers, employees, volunteers, lenders, agents, and representatives and each of their successors and assigns from and against any and all third party claims, judgments, causes of action, damages, penalties, costs, liabilities, and expenses, including all reasonable out-of-pocket costs, attorneys' fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon, arising at any time during or after the Initial Term as a result (directly or indirectly) of or in connection with (a) any OFI default under this Agreement (including in the performance or non-performance of any obligation on OFI's part to be

performed under the terms of this Agreement); (b) OFI's performance of the design and construction of the Billboard; (c) OFI's or OFI's representatives or agents use of the Property, the Billboard, any portion thereof, or any improvements thereon, the conduct of OFI's business or any activity, work or thing done, permitted or suffered by OFI or its representatives or agents in or about the Property or any portion thereof, or any improvements thereon, except that with regard to the presence of Hazardous Materials, the Property or any improvements thereon, OFI will not be responsible for conditions that existed prior to the date that City delivers exclusive control of the Property to OFI and, whether prior to the Effective Date or not, were not caused by OFI or its authorized representatives; and (d) any negligent or willful act, error or omission of OFI or its representatives or agents in or about the Billboard, any portion thereof, or any improvements thereon (collectively, "Indemnification"). OFI shall provide such Indemnification by and through counsel reasonably approved by City. Without limiting the foregoing, OFI's obligation under this Section includes Liabilities arising from any of the following:

(a) Any Occurrence that is caused by, or related in any way to, a verbal or nonverbal display on the Billboard.

(b) OFI's failure to perform any provision of this Agreement due to no fault of City, to comply with any requirement of law applicable to OFI, or to fulfill any requirement imposed by any governmental entity (including City when acting as a government) on OFI or on OFI's use of the Property.

(c) Any claim that OFI's policies with respect to the allocation of advertising time violate any person's or persons' First Amendment rights.

(d) Any Occurrence caused or allegedly caused by (i) any condition of the Property created by OFI or by any Person on the Property with OFI's permission; or (ii) some act or omission on the Property by OFI or by any Person on the Property with OFI's permission.

OFI agrees that its obligation under this Section includes the reasonable costs of attorney fees incurred by City's City Attorney's Office to monitor and consult with OFI regarding the defense of any such Liabilities, including providing direction with regard to strategy, preparation of pleadings, settlement discussions, and attendance at court hearings, mediations, or other litigation related appearances. City will use its best efforts to avoid duplicative attorney work or appearances in order to keep litigation costs to a reasonable minimum. OFI further acknowledges and agrees that settlement of any Liabilities requires the consent of City. City agrees that its consent will not be unreasonably withheld provided that OFI is financially able (based on demonstrated assets) to fulfill its obligation to indemnify City for the costs of any such settlement as required under this Agreement

45.3 Hazardous Materials. Except to the extent caused by City's negligence or willful misconduct, caused by a third party or with regard to the presence of Hazardous Materials on the Property as of the date City delivers exclusive control of the Property to OFI, OFI shall indemnify, defend and hold City harmless from any claims, causes of action, liabilities, losses, damages, injunctions, suits, fines, penalties, costs or expenses (including attorneys' fees and expenses and consultant fees and expenses) caused or alleged to have been caused by OFI's

use, storage, handling, treatment, generation, discharge or release of Hazardous Materials in violation of OFI's obligations under this Agreement, whether such claims, causes of action or liabilities are first asserted during the Initial Term or thereafter, and including claims made against City with respect to bodily injury, death or property damage sustained by third parties caused or alleged to have been caused by OFI's use, storage, handling, treatment, generation, discharge or release of Hazardous Materials. For the purposes of clarification, the indemnity contained in this Section will be the sole indemnity OFI provides to the City with respect to Hazardous Materials and (b) OFI will not be responsible for nor indemnifies the City for any claims, causes of action, liabilities, losses, damages, injunctions, suits, fines, penalties, costs or expenses with respect to Hazardous Materials which do not directly result from OFI's use, storage, handling, treatment, generation, discharge or of Hazardous Materials in violation of OFI's obligations under this Agreement.

45.4 Survival. Each party's obligations under this Agreement will survive expiration or termination of this Agreement for a period of three (3) years following termination.

45.5 Reference of California Law. Unless expressly stated to the contrary, all references to statutes herein are to the California codes.

45.6 Interpretation of Agreement. The language in all parts of this Agreement shall in all cases be construed simply, as a whole and in accordance with its fair meaning and not strictly for or against any party. City and OFI acknowledge and agree that this Agreement has been prepared jointly by City and OFI and has been the subject of arm's length and careful negotiation over a considerable period of time, that each party has been given the opportunity to independently review this Agreement with legal counsel, and that each party has the requisite experience and sophistication to understand, interpret, and agree to the particular language of the provisions hereof. Accordingly, in the event of an ambiguity in or dispute regarding the interpretation of this Agreement, this Agreement shall not be interpreted or construed against the party preparing it, and instead other rules of interpretation and construction shall be utilized.

45.7 Institution of Legal Actions. In addition to any other rights or remedies, either party may institute legal action to cure, correct or remedy any default, to recover damages for any default, or to obtain any other remedy consistent with the purpose of this Agreement. Such legal actions must be instituted in the Superior Court of the County of Ventura, State of California or in the United States District Court for the Central District of California.

45.8 No Relocation Benefits. It is agreed that nothing contained in this Agreement shall give OFI any right to occupy the Property at any time after the expiration of the term of this Agreement or its termination. OFI agrees that, upon the expiration or termination of this Agreement, OFI's use of the Property for the location of a Billboard or this Agreement shall not entitle OFI to any relocation benefits from the City pursuant to any federal, state or local law and waives any such claim against the City.

45.9 IN WITNESS WHEREOF, the City and OFI hereto have each executed this Agreement as of the date first written above.

CITY:

CITY OF OXNARD, a California municipal corporation

By: _____
Mayor

ATTEST:

Rose Chaparro, City Clerk

APPROVED AS TO FORM:

Stephen Fischer, City Attorney

OUTFRONT FOSTER INTERSTATE LLC

By Its Members:

FOSTER INTERSTATE LLC

By: _____

Print Name: John B. Foster

Title: Manager

OUTFRONT MEDIA, LLC

By: _____

Print Name: _____

Title: _____

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY SUBJECT TO ENA

City-owned property and right-of-way on the north side of U.S. Highway 101 between Santa Clara River and Rose Avenue.

EXHIBIT "B"

LEGAL DESCRIPTION OF PROPERTY

B
EXHIBIT "A"

DESCRIPTION

A VARIABLE WIDTH LEASE AREA FOR ALL THAT PORTION OF LAND IN THE CITY OF OXNARD, COUNTY OF VENTURA, STATE OF CALIFORNIA, BEING A PORTION OF PROPERTY AS DESCRIBED IN THE RELINQUISHMENT TO THE COUNTY OF VENTURA, AS RECORDED IN BOOK 1518, AT PAGES 81 THROUGH 84 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDS, AND PER THE EFFECT OF ORDINANCE NO. 746, ANNEXATION 61-11, ADOPTED FEBRUARY 20, 1962, PURPORTEDLY TO BECOME EFFECTIVE MARCH 22, 1962, PURPORTING TO ANNEX THE SUBJECT LAND INTO THE CITY OF OXNARD, STATE OF CALIFORNIA, PURSUANT TO THE TERMS COVENANTS, CONDITIONS AND PROVISIONS CONTAINED THEREIN, THE LEASE AREA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE WESTERLY TERMINUS OF A TANGENT LINE BEARING NORTH 82°02'39" EAST, HAVING A DISTANCE OF 245.42 FEET, ALSO BEING THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 780.00 FEET, AS SHOWN ON TRACT NO. 4434, RECORDED IN MAP BOOK 114, PAGES 62 THROUGH 66, IN THE OFFICE OF SAID COUNTY RECORDER; THENCE LEAVING SAID TANGENT LINE, SOUTH 59°48'46" WEST, A DISTANCE OF 851.86 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 1,054.96 FEET AND A RADIAL LINE BEARING NORTH 52°46'55" WEST, SAID BEGINNING OF CURVE BEING THE **POINT OF BEGINNING**; THENCE, SOUTHWESTERLY ALONG SAID CURVATURE,

1. THROUGH A CENTRAL ANGLE OF 03°04'15", AN ARC DISTANCE OF 56.54 FEET; THENCE,
2. NORTH 66°28'23" WEST, A DISTANCE OF 25.28 FEET, TO THE NORTHWESTERLY LINE OF RELINQUISHMENT OF STATE HIGHWAY TO VENTURA COUNTY PER BOOK 1518, PAGE 81 OF OFFICIAL RECORDS OF SAID COUNTY RECORDER, BEING A POINT OF CURVATURE OF A CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 140.00 FEET AND A RADIAL LINE TO SAID CURVATURE BEARING NORTH 57°26'00" WEST; THENCE NORTHEASTERLY ALONG SAID CURVATURE,
3. THROUGH A CENTRAL ANGLE OF 24°31'24", AN ARC DISTANCE OF 59.92 FEET, TO THE INTERSECTION WITH A LINE BEARING NORTH 65°58'23" WEST FROM THE POINT OF BEGINNING; THENCE, ALONG SAID LINE,
4. SOUTH 65°58'23" EAST, A DISTANCE OF 15.59 FEET, TO THE POINT OF BEGINNING.

ALL AS SHOWN ON EXHIBIT "B", AND BY REFERENCE HEREIN, MADE A PART HEREOF.

Chris Nelson

CHRIS NELSON, PLS 6385
DATED: JUNE 14, 2021



PAGE 1 OF 1

JN 19-5125



LEASE AREA
1,244.5 ± SQ. FT

EXHIBIT 'B'



SCALE: 1" = 10'



DATED: 06/09/2021

36.5'
POINT OF COMMENCEMENT
BEGINNING CURVE
 $\Delta=30^{\circ}07'01''$ $R=780.00'$
 $T=209.85'$ $L=410.00'$
TO BEGINNING CURVE PER TRACT
NO. 4334, M.B. 114, PAGES 62-66
 $N82^{\circ}02'39''E$ 245.42'
CENTERLINE PER TRACT NO.
4334, M.B. 114, PAGES 62-66
E/L VARIES
559° 48' 46" W
47.5'

NORTH VENTURA ROAD

IDENTICAL

POINT OF BEGINNING

NORTHEASTERLY LINE OF RELINQUISHMENT
OF STATE HIGHWAY TO VENTURA COUNTY
PER BOOK 1518, PAGE 81, O.R.
 $L=59.92'$
 $R=140.00'$
 $\Delta=24^{\circ}31'24''$

VARIABLE WIDTH LEASE AREA

RELINQUISHMENT OF STATE HIGHWAY TO VENTURA COUNTY PER BOOK 1518, PAGE 81, O.R.
AND ANNEXATION TO THE CITY OF ONYARD PER ORDINANCE NO. 746, ANNEXATION 61-11,
ADOPTED 2/20/1962 AND PURPORTEDLY TO BECOME EFFECTIVE 3/22/1962
 $\Delta=03^{\circ}04'15''$
CURB FACE
 $R=1,054.96'$
 $L=55.54'$

SOUTHEASTERLY LINE OF RELINQUISHMENT OF STATE
HIGHWAY TO VENTURA COUNTY PER BOOK 1518,
PAGE 81, O.R.

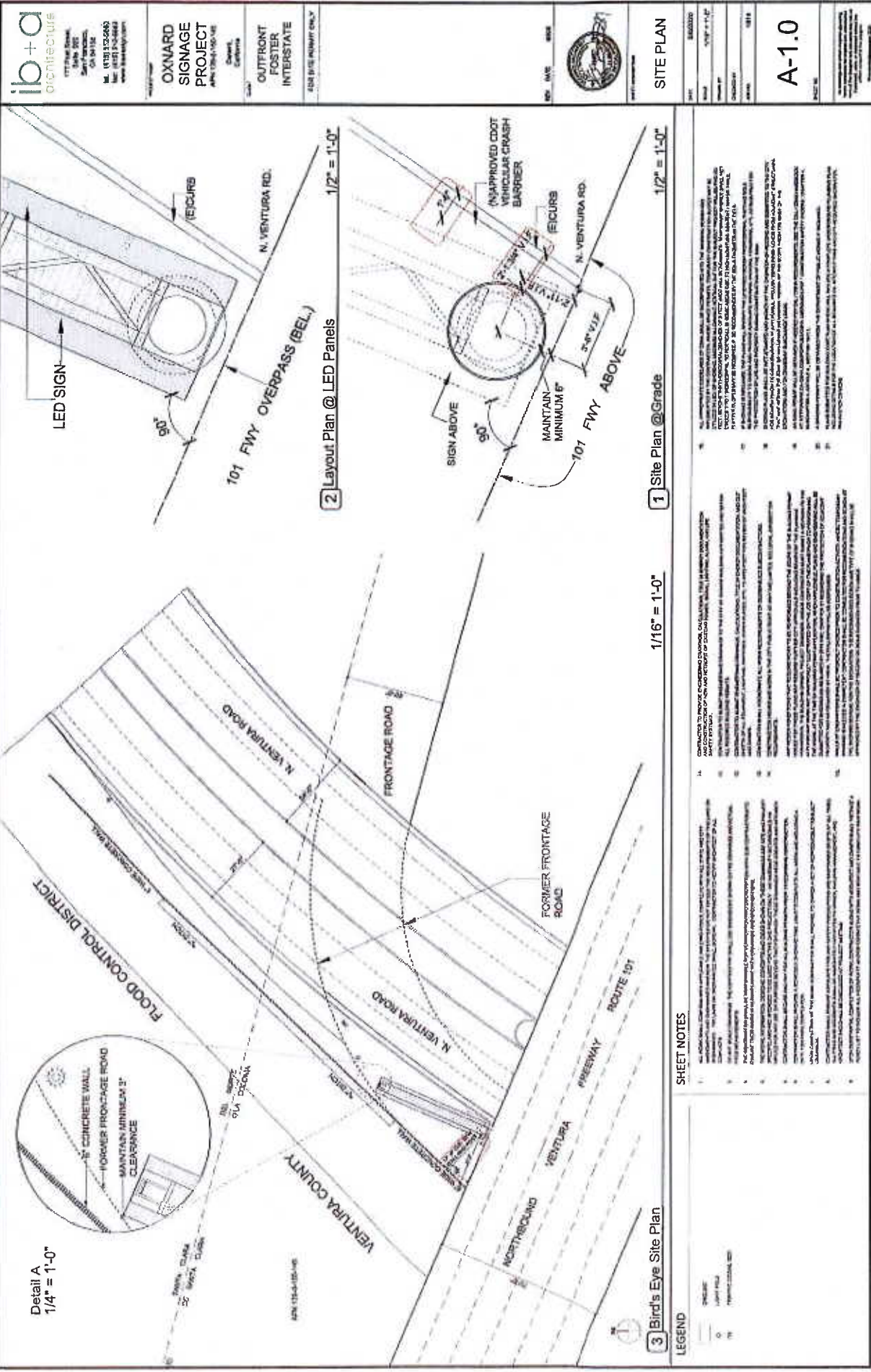
VENTURA FREEWAY
U.S. HIGHWAY NO. 101

NORTHEASTERLY LINE OF FREEWAY OVERPASS

C/L

EXHIBIT "C"

BILLBOARD



ib+a
architecture

1111 Pine Street,
Suite 202
Santa Monica, CA 90405
Tel: (310) 313-2665
Fax: (310) 313-2666
www.ib+a.com

OXNARD SIGNAGE PROJECT

Client:
Oxnard, California

OUTFRONT FOSTER INTERSTATE

DATE: 01-10-15

DESIGNER: [Signature]

SITE PLAN

Scale: 1/16" = 1'-0"

Sheet: A-1.0

- LEGEND**

 - CONCRET
 - LIGHT PAUL
 - PAVEMENT
- SHEET NOTES**

 1. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA STANDARD SPECIFICATIONS FOR HIGHWAYS AND BRIDGES, LATEST EDITIONS OF THE CALIFORNIA STANDARD SPECIFICATIONS FOR STRUCTURES, AND THE LATEST EDITIONS OF THE CALIFORNIA STANDARD SPECIFICATIONS FOR TRAVEL CONTROLS, SIGNS AND PAVEMENT MARKINGS.
 2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.
 3. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AND UTILITIES AT ALL TIMES.
 4. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES AND STRUCTURES.
 5. THE CONTRACTOR SHALL MAINTAIN ADEQUATE SAFETY MEASURES IN PLACE AT ALL TIMES DURING CONSTRUCTION.
 6. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE REMOVAL OF ALL CONSTRUCTION DEBRIS AND MATERIALS.
 7. THE CONTRACTOR SHALL MAINTAIN ADEQUATE DRAINAGE AND EROSION CONTROL MEASURES.
 8. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL ADJACENT PROPERTIES AND UTILITIES.
 9. THE CONTRACTOR SHALL MAINTAIN ADEQUATE SAFETY MEASURES IN PLACE AT ALL TIMES DURING CONSTRUCTION.
 10. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE REMOVAL OF ALL CONSTRUCTION DEBRIS AND MATERIALS.



1711 New Street
Suite 201
San Francisco, CA 94115
Tel: (415) 812-9900
Fax: (415) 812-9902
www.b-a.com

**OXNARD
SIGNAGE
PROJECT**

APR 13-2011-11-11

Client
California

**OUTFRONT
FOSTER
INTERSTATE**

FOR SITE VISIT ONLY

REV DATE



**SIGN
ELEVATIONS
AND PLAN**

DATE: 04/13/11
DRAWN BY: [blank]
CHECKED BY: [blank]
APPROVED BY: [blank]

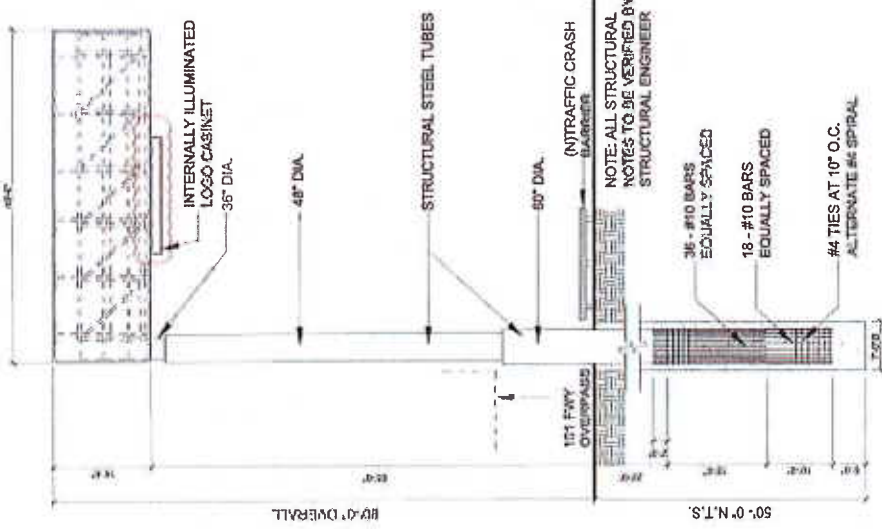
A-2.0

1711 New Street
Suite 201
San Francisco, CA 94115
Tel: (415) 812-9900
Fax: (415) 812-9902
www.b-a.com



2 Plan View

SCALE: 1/8" = 1'-0"



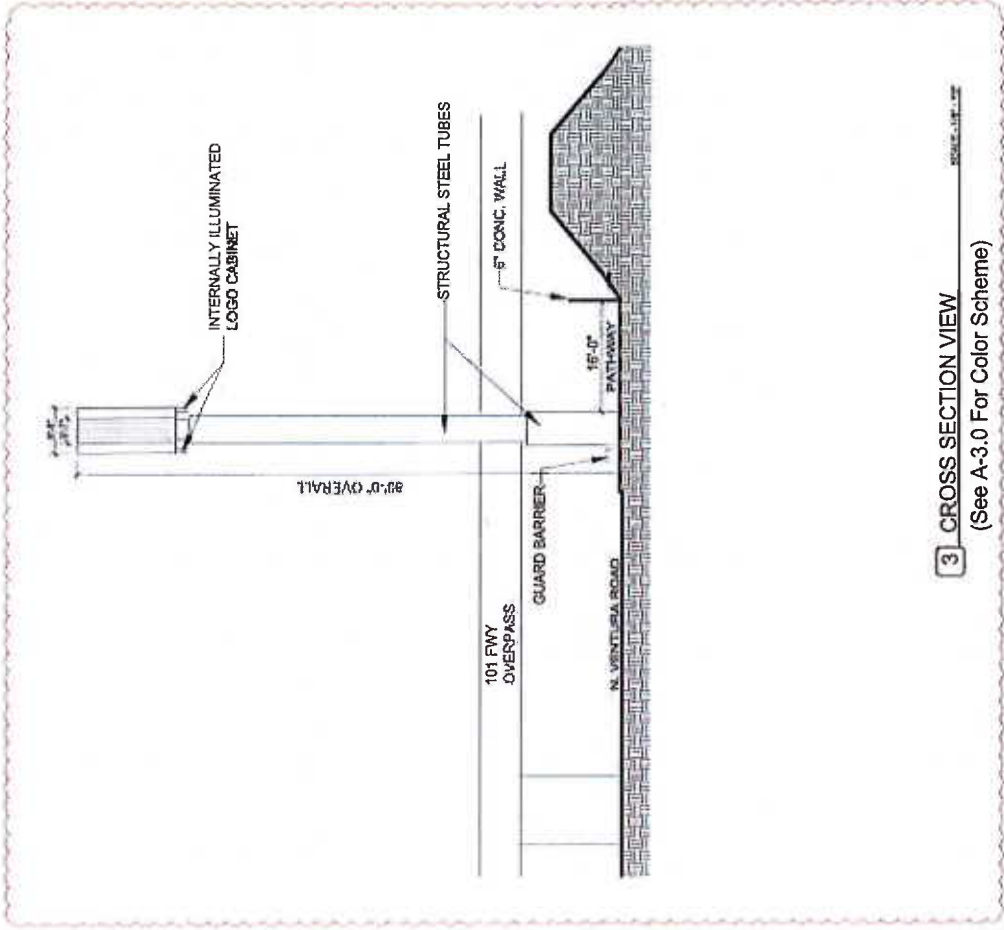
1 Overall Elevation

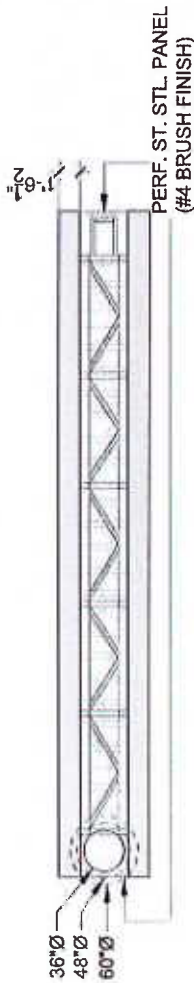
SCALE: 1/8" = 1'-0"

(See A-3.0 For Color Scheme)

3 CROSS SECTION VIEW

(See A-3.0 For Color Scheme)





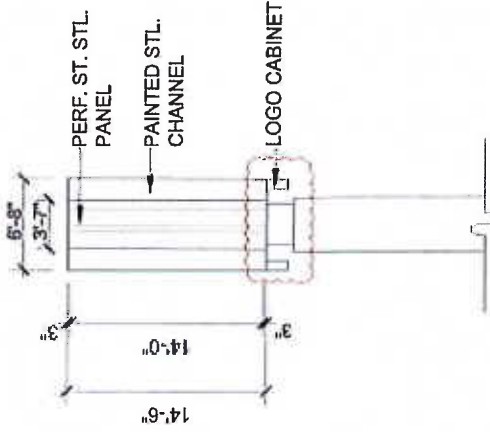
1 Face Elevation

SCALE: 1/8" = 1'-0"



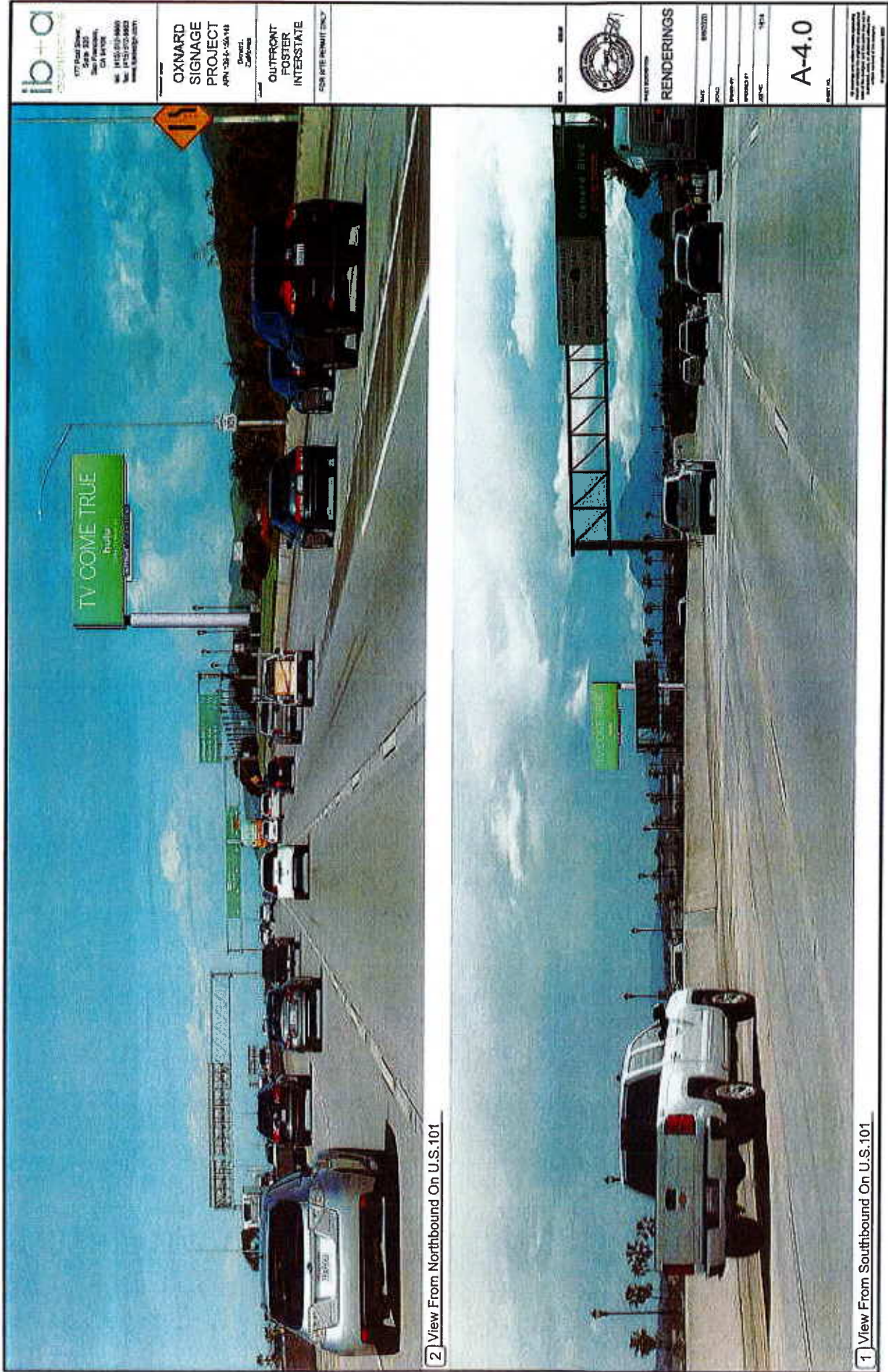
2 GUARD BARRIER FRONT VIEW

SCALE: 1/8" = 1'-0"



3 End Elevation

SCALE: 1/8" = 1'-0"



2 View From Northbound On U.S.101

1 View From Southbound On U.S.101

ib+a
 CONSULTANTS
 1777 Road Street,
 Suite 200
 San Francisco,
 CA 94109
 Tel: (415) 391-1000
 Fax: (415) 391-1000
 Email: info@ib+a.com

**OXNARD
 SIGNAGE
 PROJECT**
 APRIL 2014 - MAY 2014
 Oxnard,
 California

**OUTFRONT
 FOSTER
 INTERSTATE**

FOR THE PROJECT



RENDERINGS
 DATE: 05/20/2014
 DRAWN BY: JDF
 CHECKED BY: JDF
 SCALE: 1/4" = 1'-0"

A-4.0

This drawing is the property of Foster Interstate. It is to be used only for the project and location specified. It is not to be reproduced, copied, or used for any other purpose without the written consent of Foster Interstate.



CITY COUNCIL AGENDA REPORT

INFORMATION/CONSENT AGENDA

AGENDA ITEM NO. J.2

DATE: April 13, 2023

TO: City Council

FROM: Maureen Tamuri, Interim Community Development Director, (805) 385-7882, maureen.tamuri@oxnard.org

SUBJECT: Project Name: Ventura Road Electronic Billboard Project; Located on an approximately 1,000-square foot undeveloped site located on the north side of the U.S. 101 and immediately west of Ventura Road in the northern portion of the City of Oxnard. APN: N/A and along the Ventura Freeway (Highway 101) in The RiverPark Specific Plan area.

RECOMMENDATION

That the City Council:

1. Adopt Ordinance No. 3026 approving Planning and Zoning Permit No. 20-630-02 (Specific Plan Amendment No. 8 to the RiverPark Specific Plan) for text amendments to the RiverPark Specific Plan, subject to certain findings; and
2. Adopt Ordinance No. 3027 approving Planning and Zoning Permit No. 20-670-05 (Development Agreement No. A-8516), subject to certain findings.

BACKGROUND

Ordinance Nos. 3026 and 3027 were introduced to the City Council at its March 21, 2023 meeting. Following a public hearing, the Council introduced the ordinances for first reading by title only, waiving further reading. At the hearing, the City Council was presented with one recommendation containing two options. Following a public hearing, the City Council gave direction to move forward with Option 1, which allowed the development of the proposed Freeway Oriented Electronic Billboard and associated request, included the proposed Development and Lease Agreement as revised to include the following:

1. To include the right for the City to use 12.5% out of the total inventory of 16 spots (8 spots per face) or 2 total spots for the Billboard.
2. Revised the name of the "Oxnard Chamber of Commerce" to the "West Ventura County Business Alliance".

The applicants, Outfront Foster Interstate, LLC. ("Applicant" or "Developer") agreed to the amended language to the Development and Lease Agreement. The City Council then voted to adopt Mitigated Negative Declarations (MND 22-02 and 22-03), adopt a Resolution Approving Planning and Zoning Permit No. 20-500-06, adopt a resolution declaring its intention to vacate its right, title and interest in an approximately 1,000-square foot undeveloped site located on the north side of the U.S. 101 and immediately west of Ventura Road in the northern portion of the City of Oxnard, and introduce the Ordinances, as amended, with a vote of 5-1 for first reading by title only, waiving further reading. If adopted by Council on April 13, 2023, the ordinance will take effect thirty days thereafter.

STRATEGIC PRIORITIES

This agenda item supports Economic Development strategy. The purpose of Economic Development strategy is to focus on the retention and expansion of Oxnard businesses by increasing the skills and employability of our local workforce, invite new business investments, and target site-based redevelopment opportunities.

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 Applicant shall pay to the City 30 percent of the Annual Net Revenue, with a minimum guarantee of \$150,000 annually. Revenue receipt is dependent on construction timing, but would be anticipated in Fiscal Year 2023-24 at the earliest.

COMMITTEE OUTCOME

This is a Public Hearing and was reviewed by the Planning Commission (Commission), therefore this item did not originate in Committee.

Prepared by: Joe Pearson II, AICP, Planning & Environmental Services Manager

ATTACHMENTS

1. Ventura Road Staff Report (Council) 3.21.23
2. Draft Ordinance Approving PZ Permit No. 20-630-02 (Specific Plan Amendment)
3. Draft Ordinance Approving PZ Permit No. 20-670-05 (Development Agreement)



CITY COUNCIL AGENDA REPORT

PUBLIC HEARINGS AGENDA ITEM NO. M.7

DATE: March 21, 2023

TO: City Council

FROM:

Maureen Tamuri, Interim Community Development Director, (805) 385-7882,
maureen.tamuri@oxnard.org

SUBJECT: Project Name: Ventura Road Electronic Billboard Project; Located on an approximately 1,000-square foot undeveloped site located on the north side of the U.S. 101 and immediately west of Ventura Road in the northern portion of the City of Oxnard. APN: N/A and along the Ventura Freeway (Highway 101) in The RiverPark Specific Plan area. (30 minutes)

RECOMMENDATION

That the City Council:

1. Conduct a public hearing, and

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

Option 1 – Applicants’ Original Request/Staff’s Recommended Action – Allowing the development of a Freeway Adjacent Digital Display Billboard:

- a. Approve a Resolution Adopting a Mitigated Negative Declaration (MND) 22-02; and
- b. Approve a Resolution Adopting a Mitigated Negative Declaration (MND) 22-03; and
- c. Introduce an Ordinance (by title only, waiving further reading) approving Planning and Zoning Permit No. 20-630-02 (Specific Plan Amendment No. 8 to the RiverPark Specific Plan) for text amendments to the RiverPark Specific Plan, subject to certain findings; and
- d. Introduce an Ordinance (by title only, waiving further reading) approving Planning and Zoning Permit No. 20-670-05 (Development Agreement No. A-8516), subject to certain findings; and
- e. Adopt a Resolution Approving Planning and Zoning Permit No. 20-500-06 (Special Use Permit) and overturning the Planning Commission’s Denial, subject to certain conditions and findings.
- f. Adopt Resolution declaring its intention to vacate its right, title and interest in an approximately 1,000-square foot undeveloped site located on the north side of the U.S. 101 and immediately west of Ventura Road in the northern portion of the City of Oxnard and direct the City Clerk to schedule a public hearing in accordance with the vacation procedures contained in California Streets and Highway Code Section 8300 et seq to be held on Tuesday April 18,

2023 at 6:00 p.m. at the at the City Council Chambers of the City of Oxnard located at 305 West Third Street in Oxnard, California.

Option 2 – Planning Commission Recommendation – Denying the development of a Freeway Adjacent Digital Display Billboard:

- a. Provide direction to City staff to return at a date certain meeting with the appropriate resolutions of denial for Planning and Zoning Permit Nos. 20-630-02 (Specific Plan Amendment No. 8 to the RiverPark Specific Plan), Planning and Zoning Permit No. 20-670-05 (Development Agreement No. A-8516), Planning and Zoning Permit No. 20-500-06 (Special Use Permit), and Planning and Zoning Permit No. 21-660-03 (Street Vacation).

Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/QLdwREOpX_8

BACKGROUND

EXECUTIVE SUMMARY:

The Project includes a request for a Special Use Permit, Development Agreement, Street Vacation and Specific Plan Amendment to allow for the installation and operation of a Freeway Adjacent Digital Billboard (billboard) on an approximately 1,000-square foot undeveloped site located on the north side of the U.S. 101 and immediately west of Ventura Road in the northern portion of the City of Oxnard (“Project”).

The Special Use Permit allows for the development of an electronic billboard that would include a digital display of advertisements of various businesses, activities, services or products. The billboard complies with the staff recommended Freeway Adjacent Digital Billboard Ordinance: approximately 80 feet in height above the ground and a two-sided light-emitting diode (LED) digital display that would have dimensions of 14 feet in height and 48 feet in width. The location also requires a Street Vacation to vacate the existing right-of-way to the City of Oxnard and a Specific Plan Amendment to allow for Freeway Adjacent Digital Display Billboards within the RiverPark Specific Plan.

The proposed Development Agreement (DA) allows for the use of City property for the purpose of a Freeway Adjacent Digital Display Billboard and among other public benefits requires payment to the City equal to thirty (30) percent of the Annual Net Revenue, with a minimum guarantee of \$150,000 per year for the thirty year (30) term of the DA. This payment equates to a range of approximately \$4.5M - \$8.4M for the subject sign.

Pursuant to Oxnard City Code, the Commission is the decision maker for Special Use Permit, however the Commission is only the recommendation body for Specific Plan Amendments, Street Vacations, and Development Agreements.

On February 2, 2023, the Planning Commission first took action on a proposed Freeway Adjacent Digital Billboard Ordinance (Ordinance). The Commission made numerous changes to the Ordinance, which made the subject SUP inconsistent with the Ordinance. At the February 2, 2023 Commission hearing, the Commission denied, and recommended Council denial, of the Subject permits. Based on the denial of the Special Use Permit and recommendations on the other permits, the Commission could not find the street vacation in conformance with the 2030 General Plan. However, in their motion, the Commission stated that should the City Council approve the Freeway Adjacent Digital Display Billboards Ordinance as originally proposed by City Staff, which would allow for this billboard they would be in support of this proposed Project. This would include finding it consistent with the 2030 General Plan.

As the final decision maker for the Specific Plan Amendment and the Development Agreement is the City Council, and to ensure that the City Council had the opportunity to review the whole of the project, all related entitlements are being presented to the City Council for their consideration. City Staff filed a request for review of the Planning Commissions denial of the Special Use Permit. While City Staff filed the request for review, the Applicant for the project is still Outfront Foster Interstate represented by Lars Skugstad (hereafter “Applicant” or “Developer”).

Staff continues to recommend approval of the Project as originally proposed by the Applicant based upon:

1. City Council authorization, approval, and continued extensions of Exclusive Negotiation Agreements (ENAs) with both Outfront Foster Interstate since 2019, which identified potential Freeway Adjacent Digital Display Billboard locations;

With the increased separation from residential uses requested by the Planning Commission as part of the recommendation on the Ordinance, the subject Billboard location would not be allowed.

2. Compliance with State laws established by the California Department of Transportation (Caltrans), which is the agency responsible for regulating freeway safety;

3. Consistency with the general plan, zoning, and the environmental review, specifically the lighting impacts which does not allow an increase in illumination at any residentially zoned property by more than 0.5 footcandles, which is deemed negligible. (This is further discussed in the “Key Projects Concerns” section of this report).

In summary, at this public hearing, the City Council has the option to move forward with: (1) the approval of the Project; or (2) provide direction to deny the Project and direct City staff to return at a date certain meeting with the appropriate resolutions of denial. Should the City Council choose to take another action other than those identified, the City Council can direct staff to return at a future public hearing with revised documents incorporating the direction provided.

Role of the Planning Commission and City Council

Pursuant to Oxnard City Code (OCC) Section 2-95, the Commission is an advisory body which provides land use recommendations to the City Council on items such as General Plan Amendments, Specific Plans, Ordinance Amendments, and Development Agreements. Therefore while the City Council is to consider the recommendations of the Commission, the Council may take an action which is not consistent with the recommendations of the Commission.

For the benefit of the City Council, this staff report provides: 1) background of the ENA discussions and Billboards; 2) a summary of the Commission hearings; 3) summaries of the Project and associated environmental review; and 5) a discussion of key concerns raised at Planning Commission.

BACKGROUND:

ENA Discussions and Extensions

On June 18, 2019, the City Council approved and authorized the Mayor to execute an Exclusive Negotiation Agreement (ENAs) with Outfront Foster Interstate, LLC for potential digital billboard sites. Under the terms of the ENA, Outfront Foster was given the exclusive right to negotiate with the City for an initial six-month period, and two additional six-month terms if the projects were being diligently pursued by Outfront Foster. The ENA is currently on the 7th Amendment which runs through June 6, 2023.

Existing Billboards and Freeway Oriented Signage

The City currently allows for billboards in the form of Off-site advertising signs throughout the City in General Commercial (C-2), Commercial Manufacturing (C-M), Limited Manufacturing (M-L), Light Manufacturing (M-1), and Heavy Manufacturing (M-2) zones pursuant to OCC 16-608. Under the proposed ordinance the Freeway Adjacent Digital Display Billboards, would be regulated separately from the Off-site advertising signs. The allowance of Freeway Adjacent Digital Display Billboards, is much more limited, as they are only allowed within 400 feet of the U.S. Highway 101 and only on City owned property. Similar to the Off-site advertising signs these signs would only be allowed within commercially zoned property.

In addition to the existing Off-site advertising signs, the City has permitted two digital signs as allowed by the RiverPark Specific Plan (The Collection) and the Rose Santa Clara Specific Plan (Oxnard Auto Center). These signs are not defined as Off-site advertising signs and generally limited to the display of businesses located within the Collection or the Oxnard Auto Center. They were both permitted under their respective Specific Plans; therefore, no additional digital signage would be allowed without changes to the Specific Plans. Also, the Collection sign is approximately 110 feet away from the closest residential zoned property.

Freeway Adjacent Digital Display Billboards Ordinance (PZ 20-580-06)

Prior to consideration of the subject request, Council must take action on amendments to Article IX. Advertising Signs of the Oxnard City Code to permit Freeway Adjacent Digital Display Billboards. A separate staff report addresses the

specifics of that Ordinance, as well as the Commission's recommended changes to that Ordinance. The Commission's recommended changes to the Ordinance was approved by 3 (in favor) - 2 (against), with two commissioners absent. Due to the proposed changes the Commission was required to review the Ventura Road Electronic Billboard Project in accordance with the amendments. As the Project was inconsistent with the recommended amendments, the Commission had to deny Planning and Zoning Permit No. 20-500-06 (Special Use Permit) and recommend denial of the other associated project component.

PROJECT REQUESTS:

The Applicant's request sought Planning Commission and City Council approval of the following four requests (Special Use Permit, Development Agreement, Specific Plan Amendment, Street Vacation, and Mitigated Negative Declarations (MND 22-02 and 22-03)):

1. Special Use Permit

The billboard would include a digital display of advertisements of various businesses, activities, services or products. The proposed billboard would be supported by a pole that ranges in diameter from approximately 7 feet to 3 feet. The pole would extend approximately 65.5 feet above ground. The pole would be painted primarily gray except for the upper 10.5 feet that would be painted black. The top of the billboard would be approximately 80 feet in height above the ground and the dimensions of the electronic billboard sign would be 14.5 feet in height and 48.5 feet in width. The existing ground level is at approximately the same elevation as the travel lanes along Ventura Road. The electronic billboard would have a two-sided light-emitting diode (LED) digital display that would have dimensions of 14 feet in height and 48 feet in width.

Lighting levels on the digital sign will not exceed 0.3 foot candles above ambient light from a distance of 250 feet, as measured according to standards of the Outdoor Advertising Association of America. Brightness shall not exceed 300 nits (nits) or candela per square meter from sunset to sunrise. At all other times, brightness will not exceed 7,500 nits. Illumination shall be directed such that minimal light spill will occur on either side or the top or bottom of the sign face. A light sensor will be installed with the sign to measure ambient light levels and adjust light intensity and brightness based on ambient conditions. For reference, based on a study of existing lighting levels, along Ventura Road the average illumination is 15 foot-candles due to existing street lights and other nearby lighting fixtures. The electronic sign will not display any moving, flashing, scrolling, fading, brightening or animated text or video. The signage will be controlled remotely and include remote maintenance software. LED lighting has a directional nature, focused toward the freeway. Louvers will be located above each row of lights to prevent light from projecting upward into the sky. As designed the billboard complies with the staff recommended ordinance and the State laws established by the California Department of Transportation (Caltrans), which is the agency responsible for regulating freeway safety.

2. Development Agreement

The proposed Development Agreement will allow for the use of City property for the purpose of a Freeway Adjacent Digital Display Billboard. The agreement also outlines the required public benefits to be provided by the future development, including fiscal benefits to the City, such as revenue sharing. As proposed these include:

- **Term** - Thirty (30) years.
- **Monetary Payment** - The Applicant shall pay to the City 30 percent of the Annual Net Revenue, with a minimum guarantee of \$150,000 per year (approximately \$4.5M - \$8.4M over the term of the agreement).
- **City Usage of the Billboard** - To the extent that commercial advertising time on the Billboard is unsold and available, City shall have the right to use 12.5% out of the total inventory of 16 spots (8 spots per face) or 2 total spots for the Billboard.
- **Emergency Notifications** - Outfront shall make the Billboard available to Caltrans and the California Highway Patrol for purposes of "Amber Alerts" and for emergency or disaster notifications by local, state or federal agencies.
- **Discount for Oxnard Auto Dealers and Oxnard Chamber of Commerce Members** - Oxnard Auto Dealers and members of the Oxnard Chamber of Commerce shall receive a ten percent (10%) discount from the rates to advertise on the Billboard.
- **Prohibitions** - Any message that: is inherently false, misleading, or libelous (i.e., speech that is incapable of being presented in a manner that is not misleading); promotes the sale or use of firearms or tobacco products, whether directly or indirectly; promotes adult entertainment, products, conventions, events, or websites; contains "obscene matter," as that term is defined in local, California or federal law.

3. Specific Plan Amendment

The proposed Project requires an amendment to the RiverPark Specific Plan. to add Freeway Adjacent Digital Display Billboards within the Commercial Master Plan of the RiverPark Specific Plan. The specific revisions to the Specific Plan text identify minimum and maximum lot dimensions as well as size and spacing of the billboards. These revisions are consistent with the staff recommended Freeway Adjacent Digital Display Billboards Ordinance that is required to be approved prior to approval of the proposed Project. The Specific Plan Amendment was analyzed under MND 22-02.

4. Street Vacation

The Project site is within the current street right-of-way and is proposed to be vacated. As the underlying property owner, the City of Oxnard will retain ownership, making it a City-owned property. The process for a right-of-way vacation is outlined in the Streets and Highways Code Section 8320. Pursuant to Streets and Highways Code Section 8320, a vacation request involves a two-step process. The first step, occurring on March 21, 2023, requires the City Council to review the street vacation requests and adopt a resolution of intention to vacate the easement. The second step involves a noticed public hearing and the adoption of a resolution to vacate the easement by the City Council. In accordance with Streets and Highways Code Section 8320(b)(2), the date of the public hearing shall not be less than 15 days after the initiation of proceedings which means that the earliest the City Council can schedule a public hearing to consider the easement vacation at a regular City Council meeting is April 18, 2023.

The easement vacation map is included as Attachment 9, Exhibit A. Vacating the approximately 1,000-square foot undeveloped site located on the north side of the U.S. 101 and immediately west of Ventura Road in the northern portion of the City of Oxnard will not alter public safety, convenience, and public welfare. The proposed site improvements include the installation of an electronic sign and traffic barrier. In the City's Bicycle and Pedestrian Master Plan, this location is identified as the possible location for the Santa Clara River multi-purpose path. City staff has reviewed the proposed sign and barrier location and confirmed that there is sufficient space for the future path, should it be developed in the future.

Additionally, all property vacations are to be reviewed for conformance with the General Plan. As previously mentioned, the easement vacation was reviewed by the Planning Commission. Based on the denial of the Special Use Permit and recommendations on the other permits, the Commission could not find the street vacation in conformance with the 2030 General Plan. However, in their motion, the Commission stated that should the City Council approve the Freeway Adjacent Digital Display Billboards Ordinance as originally proposed by City Staff, which would allow for this billboard, they would be in support of this proposed Project. This would include finding it consistent with the 2030 General Plan.

5. Environmental Determination

Mitigated Negative Declaration (MND 22-02)(Specific Plan Amendment)

Pursuant to the California Environmental Quality Act (CEQA) Section 15060, the City of Oxnard as the Lead Agency, prepared a Mitigated Negative Declaration (MND) in accordance with CEQA and the CEQA Guidelines. The MND identified and discussed potential impacts, mitigation measures, monitoring requirements, and residual impacts for identified subject areas. The MND found that the implementation of the proposed Project would result in potentially significant impacts associated with biological resources, cultural resources, and noise on wildlife species. Mitigation measures have been required to reduce each potentially significant impact to less than significant. The mitigation measures that have been required within the MND would reduce potential significant impacts. These measures include (BIO-1) conducting a pre-construction survey for active bird nests, and (CUL-1 and CUL-2) monitoring and collecting, if necessary, any discovered archaeological and paleontological resources. After the implementation of the required mitigation measures, the potential significant impacts would be reduced to less than significant. No remaining significant impacts would occur. With respect to Aesthetics, although less than significant lighting impacts would occur, the MND includes mitigation measures that are recommended to further reduce less than significant light impacts. These measures include: (AES-1 and AES-2) allowing for remote shut off in the event of malfunction and conducting illumination level verification tests.

The MND was available for public review from June 30, 2022, and ended on July 29, 2022. The City of Oxnard received four comment letters on the Draft MND. The comment letters and responses to each comment have been prepared and included in the Final IS/MND. Comments provided will be considered by the decision-making body in accordance with CEQA Guidelines, Section 15074(b).

With the inclusion of the mitigations for the areas noted above, the Project will not have a significant effect on the environment. Therefore, a Mitigated Negative Declaration (MND) was prepared with mitigation measures and a monitoring program in accordance with the provisions of CEQA.

Mitigated Negative Declarations (MND 22-03)

Pursuant to the California Environmental Quality Act (CEQA) Section 15060, the City of Oxnard as the Lead Agency, prepared a Mitigated Negative Declaration (MND) in accordance with CEQA and the CEQA Guidelines. The MND identified and discussed potential impacts, mitigation measures, monitoring requirements, and residual impacts for identified subject areas. The MND found that the implementation of the proposed Project would result in potentially significant impacts associated with biological resources, cultural resources, and noise on wildlife species. Mitigation measures have been required to reduce each potentially significant impact to less than significant. The mitigation measures that have been required within the MND would reduce potential significant impacts. These measures include: (BIO-1 and BIO-2) conducting a pre-construction survey for active bird nests and conducting focused protocol nest survey for least Bell's vireo, and (CR-1 and CR-2) monitoring and collecting, if necessary, any discovered archaeological and paleontological resources. After the implementation of the required mitigation measures, the potential significant impacts would be reduced to less than significant. No remaining significant impacts would occur. With respect to Aesthetics, although less than significant lighting impacts would occur, the MND includes mitigation measures that are recommended to further reduce less than significant light impacts. These measures include: (AES-1 and AES-2) allowing for remote shut off in the event of malfunction and conducting illumination level verification tests.

The MND was available for public review from June 30, 2022, and ended on July 29, 2022. The City of Oxnard received five comment letters on the Draft MND. The comment letters and responses to each comment have been prepared and included in the Final IS/MND. Comments provided will be considered by the decision-making body in accordance with CEQA Guidelines, Section 15074(b).

With the inclusion of the mitigations for the areas noted above, the Project will not have a significant effect on the environment. Therefore, a Mitigated Negative Declaration (MND) was prepared with mitigation measures and monitoring program in accordance with the provisions of CEQA.

KEY PROJECT CONCERN

Visual Impacts on View Corridors

Concerns were raised by Commissioners and members of the public regarding visual impacts to the Highway 101 corridor. Specifically, comments were made about impacts on mountain views. While the proposed billboard would be visible, it is consistent with the nature of the U.S. Highway 101 corridor, which is generally characterized by urban or high density development. This includes mid-high rise developments in both RiverPark and Wagon Wheel, which include urban developments up to 100 feet in height, as well as other commercial developments including car dealerships, hotels, restaurants, etc. The corridor also includes other similar large scale signage such as the existing Auto Center (70 feet), The Collection (60 feet), and Esplanade (75 feet) signs, which is similar to the proposed Project which would be 60 feet tall as viewed from the freeway. In addition to these signs there are numerous larger illuminated freeway signs, including electronic ones, along the corridor. The proposed billboard would be consistent with the overall nature of the corridor.

STRATEGIC PRIORITIES

This agenda item supports Economic Development strategy. The purpose of Economic Development strategy is to focus on the retention and expansion of Oxnard businesses by increasing the skills and employability of our local workforce, invite new business investments, and target site-based redevelopment opportunities.

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

If option 1 is selected, the Applicant shall pay to the City 30 percent of the Annual Net Revenue, with a minimum guarantee of \$150,000 annually. Revenue receipt is dependent on construction timing, but would be anticipated in Fiscal Year 2023-24 at the earliest.

COMMITTEE OUTCOME

This is a Public Hearing and was reviewed by the Planning Commission (Commission), therefore this item did not originate in Committee.

During the Commission's public hearing on January 19, 2023, Commissioners asked a series of questions as a result of staff's and the Applicant team's presentations. One verbal comment was provided during the public comment period on the Project. The questions and comments were generally in regards to the impacts on views and lighting. Following Commission deliberation, a motion of Intent to Deny the Project as they could not make all of the Findings required to support the Project. However, as part of this motion the Commission, included a statement that if the the City Council did not incorporate their recommendations on the Zone Text Amendment PZ 20-580-06, that they would be in support of the proposed Project, as it was further from existing residential. The January 19, 2023 Planning Commission meeting can be viewed online at the following link: <https://www.youtube.com/watch?v=DIS7Q-hYfgg>.

On February 2, 2023, all six members of the Planning Commission were present. The Commissioners who were not present on January 19, 2023 confirmed they reviewed the staff materials and watched the video of the Commission's January 19 meeting. One of the Commissioners who was previously present on January 19th, was absent on February 2nd. On February 2, 2023, the Commission voted 6-0 (with one commissioner absent), to adopt a resolution denying the Special Use Permit and recommending denial of the Specific Plan Amendment, Street Vacation, and Development Agreement to the City Council. While as noted above the Commission was required to deny the project based upon the recommended changes to the ordinance, some of the commissioners did raise concern about the Project's visual impacts.

Prepared by: Joe Pearson II, AICP, Planning & Environmental Services Manager

ATTACHMENTS

1. Planning Commission Staff Materials dated 1-19-2023 and 2-2-2023
2. Final IS-MND 22-02
3. Final IS_MND 22-03
4. Draft City Council Resolution Adopting Mitigated Negative Declaration (MND) 22-02
5. Draft City Council Resolution Adopting Mitigated Negative Declaration (MND) 22-03
6. Draft Ordinance Approving PZ Permit No. 20-630-02 (Specific Plan Amendment)
7. Draft Ordinance Approving PZ Permit No. 20-670-05 (Development Agreement)
8. Draft Resolution Approving Planning and Zoning Permit No. 20-500-06 (Special Use Permit)
9. Draft City Council Resolution of Intent
10. Ventura Road Electronic Billboard Project CCPresentation



CITY COUNCIL AGENDA REPORT
INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. J.8

DATE: May 2, 2023

TO: City Council

FROM: Maureen Tamuri, Interim Community Development Director, (805) 385-7882, maureen.tamuri@oxnard.org

SUBJECT: Project Name: RiverPark Boulevard Electronic Billboard Project; Located on an approximately 0.25-acre undeveloped site located between the U.S. 101 and RiverPark Boulevard approximately 850 feet north of Vineyard Avenue in the northern portion of the City of Oxnard (APN: 132-0-311-075) and along the Ventura Freeway (Highway 101) in the RiverPark Specific Plan area.

RECOMMENDATION

That the City Council:

1. Adopt Ordinance No. 3024 approving Planning and Zoning Permit No. 20-630-02 (Specific Plan Amendment No. 8 to the RiverPark Specific Plan) for text amendments to the RiverPark Specific Plan, subject to certain findings; and
2. Adopt Ordinance No. 3025 approving Planning and Zoning Permit No. 20-670-06 (Development Agreement No. A-8515), subject to certain findings.

BACKGROUND

Ordinance Nos. 3024 and 3025 were introduced to the City Council at its March 21, 2023 meeting. Following a public hearing, the Council introduced the ordinances for first reading by title only, waiving further reading.

At its meeting on April 13, 2023, the City Council made several changes to Exhibit A to Ordinance No. 3025 (the Development and Lease Agreement) that were acceptable to the applicant Outfront Foster Interstate, LLC. The specific changes to the Development and Lease Agreement are as indicated in Attachment 1. Generally, the changes added language to Section 7.2(b) of the Development and Lease Agreement specifically indicating that the City advertising spots on the proposed billboard cannot be used for political purposes. (Such use is already prohibited under well-established California case law.) In addition, Section 8 was amended to remove specific language, including language regarding commercial advertising and political advertising as it relates to the types of advertising that OFI could display on the billboard.

Because of the changes to Exhibit A to Ordinance No. 3025, the City Council did not adopt either Ordinance No. 3024 or Ordinance No. 3025 at its April 13, 2023 meeting. Instead, both ordinances are being considered for adoption at the May 2, 2023 City Council meeting. If adopted by the City Council on May 2, 2023, the ordinance will take effect thirty days later.

STRATEGIC PRIORITIES

This agenda item supports Economic Development strategy. The purpose of Economic Development strategy is to focus on the retention and expansion of Oxnard businesses by increasing the skills and employability of our local workforce, invite new business investments, and target site-based redevelopment opportunities.

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 Applicant shall pay to the City 30 percent of the Annual Net Revenue, with a minimum guarantee of \$150,000 annually. Revenue receipt is dependent on construction timing, but would be anticipated in Fiscal Year 2023-24 at the earliest.

COMMITTEE OUTCOME

This item was reviewed by the Planning Commission, therefore this item did not originate in Committee.

Prepared by: Joe Pearson II, AICP, Planning & Environmental Services Manager, Kenneth Rozell, Chief Assistant City Attorney

ATTACHMENTS

1. Proposed Changes to Development Agreements
2. Draft Ordinance Approving PZ Permit No. 20-630-02 (Specific Plan Amendment)
3. Draft Ordinance Approving PZ Permit No. 20-670-06 (Development Agreement)
4. Riverpark Staff Report (City Council) 4.13.23
5. Riverpark Staff Report (City Council) 3.21.23 (Without Attachments)

PROPOSED CHANGES TO DEVELOPMENT AGREEMENT AND LEASE OF PROPERTY

These are the proposed changes to Exhibit A to Ordinance No. 3025 (the Development Agreement and Lease of Real Property):

1. Add the following language at the end of Section 7.2(b) of the Development Agreement and Lease of Real Property:

“Notwithstanding any language in this Section 7.2(b) to the contrary, City Usage shall not include any “political advertising,” which means advertising that promotes or opposes any candidate for public office or promotes or opposes a ballot measure, referendum, bond issue, or any federal, state or local legislation, regulation, or other discretionary action.”

2. Amend Section 8 of the Development Agreement and Lease of Real Property to read as follows:

“8. Advertising. ~~The Billboard is not intended to provide a general public forum for purposes of communication, but rather to make use of property held by the City in a proprietary capacity in order to generate revenue. Except for any advertising or messages displayed on the Billboard at the request of the City (subject to the terms of this Agreement), all advertising to be displayed on the Billboard shall be strictly “commercial advertising.” As used in this Agreement, “commercial advertising” means advertising for a commercial or industrial business, product, good, service, or other commercial or industrial activity for a commercial or industrial purpose. In addition to the general limitation on Billboard advertising to strictly commercial advertising,~~ OFI may not display any message that: is inherently false, misleading, or libelous (i.e., speech that is incapable of being presented in a manner that is not misleading); promotes the sale or use of firearms or tobacco products, whether directly or indirectly; promotes adult entertainment, products, conventions, events, or websites; contains “obscene matter,” as that term is defined in local, California or federal law, including but not limited to any statements or words of an obscene, indecent or immoral character, or any picture or illustration of any human figure in such detail as to offend public morals or decency or any other matter or thing of an obscene, indecent or immoral character; ~~contains any “political advertising,” which means advertising that promotes or opposes any candidate for~~

~~public office or promotes or opposes a ballot measure, referendum, bond issue, or any federal, state or local legislation, regulation, or other discretionary action;~~ contains language that presents a clear-and-present danger of causing riot, disorder, or other imminent threat to public safety, peace, or order. OFI shall, within 48 hours after written demand from City, at OFI's risk and expense, remove any advertising material or message that does not comply with the advertising criteria set forth in this Section, and which is not being disputed by OFI. If OFI fails to promptly cause the removal of such advertising, City may (but is not required to), without further process of law, cause the removal of the advertising. OFI shall reimburse City's costs of such actions upon demand and will bear the risk of any damage to the Billboard resulting from such actions. City may exercise such remedies without prejudice to any other remedies it may be entitled to exercise under this Agreement, at law or in equity. OFI agrees to ensure that businesses or organizations located within the City or residents of the City will be able to purchase advertising on the Billboard in such manner and at such rates as offered to businesses, organizations or persons located or residing outside of the City and that it will not permit any exclusivity contracts or arrangements with advertisers that would violate this covenant."

ORDINANCE NO. 3024

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD APPROVING PLANNING AND ZONING PERMIT NO. 20-630-02 (SPECIFIC PLAN AMENDMENT NO. 8 TO THE RIVERPARK SPECIFIC PLAN) TO AMEND THE TEXT WITHIN THE RIVERPARK SPECIFIC PLAN. FILED BY LARS SKUGSTAD, 1111 BROADWAY, SUITE 1515, OAKLAND, CA 94607 (THE “APPLICANT”) ON BEHALF OF THE CITY OF OXNARD (THE “PROPERTY OWNER”).

WHEREAS, on September 10, 2002 the City Council approved the entitlements for the RiverPark Specific Plan to guide future development on the 702-acre project site; and

WHEREAS, the City Council approved the first amendment request (PZ 02-630-05) on October 22, 2002, which amended the Specific Plan to include regulations for temporary uses; and

WHEREAS, the City Council approved the second amendment request (PZ 03-630-03) on July 27, 2004, allowing a minor change in the land use designation on a small parcel from Open Space to Commercial; and

WHEREAS, the City Council approved the third amendment request (PZ 09-630-09) on April 14, 2009, allowing a freeway-oriented pylon sign subject to approval of a Design Development Review permit (DDR) by the Development Services Director; and

WHEREAS, the City Council approved the fourth amendment (PZ 10-630-02) on June 14, 2011, and allows three freeway oriented monument signs subject to approval of a DDR, and an electronic digital display panel for the pylon sign, subject to subsequent approval of a Special Use Permit; and

WHEREAS, the City Council approved the fifth amendment (PZ 09-630-03) on June 5, 2012, which increased the maximum number of dwelling units from 2,805 to 3,043 units, and reduced the maximum amount of commercial development from 2,485,000 to 2,098,000 square feet; and

WHEREAS, the City Council approved the sixth amendment (PZ 18-630-01) on February 19, 2019, to amend the text of the RiverPark Specific Plan to allow two (2) monument signs in Planning Districts B and C in the specific plan area, subject to subsequent approval of a Development Design Review Permit; and

WHEREAS, the City Council approved the seventh amendment (PZ 20-630-01) on March 15, 2022, which allowed for the option to develop up to 1,025 additional residential units under the RiverPark Specific Plan, in exchange for a reduction of up to approximately 562,457 square feet of non-residential development potential in accordance with specified development scenarios; and

WHEREAS, the Planning Commission of the City of Oxnard has considered the proposed map and text amendment to Pages 3.7, 3.22, 5.9, and 5.23 of the RiverPark Specific Plan to allow for Freeway Adjacent Digital Display Billboards within the RiverPark Specific Plan (herein referred to as the “**Project**”); and

WHEREAS, on January 19, 2023, the Planning Commission of the City of Oxnard (**“Planning Commission”**) conducted a duly noticed public hearing where written and oral comments were received and reviewed to consider an application for Specific Plan Amendment No. 8 (PZ 20-630-02) in accordance with Chapter 16-575 of the Oxnard City Code; and

WHEREAS, on January 19, 2023, the Planning Commission reviewed all of the information provided in the staff report and considered the testimony given at the public hearing, including all written communications to the Planning Commission, as well as other pertinent information and deliberated the merits of the Project. The Planning Commission voted to deny the Project and not allow Freeway Adjacent Digital Display Billboards within the RiverPark Specific Plan, subject to the preparation of a written resolutions of denial to be considered at the Planning Commission meeting on February 2, 2023; and

WHEREAS, the Planning Commission found, after due study, deliberation and a duly noticed public hearing on February 2, 2023, and received and reviewed written and oral comments, presented by staff and the Applicant with a series of questions, and that the project, as amended, meets the criteria set out in Chapter 16-575 of the Oxnard City Code; and

WHEREAS, the Planning Commission adopted Resolution 2022-07 recommending that the City Council deny Planning & Zoning Permit No. 20-630-02 (Specific Plan Amendment); and

WHEREAS, on March 21, 2023, the City Council of the City of Oxnard conducted a duly noticed public hearing to consider the request to approve Planning and Zoning Permit No. 20-630-02 (Specific Plan Amendment), both as originally proposed by the Applicant and as recommended by the Planning Commission, in accordance with the OCC; and

WHEREAS, the City Council received written and verbal comments from the public; and

WHEREAS, the City of Oxnard as the Lead Agency, prepared a Mitigated Negative Declaration (MND) in accordance with CEQA and the CEQA Guidelines. The MND identified and discussed potential impacts, mitigation measures, monitoring requirements, and residual impacts for identified subject areas. The MND found that the implementation of the proposed Project would result in potentially significant impacts associated with biological resources, cultural resources, and noise on wildlife species. Mitigation measures have been required to reduce each potentially significant impact to less than significant. The mitigation measures that have been required within the MND would reduce potential significant impacts. These measures include (BIO-1) conducting a pre-construction survey for active bird nests, and (CUL-1 and CUL-2) monitoring and collecting, if necessary, any discovered archaeological and paleontological resources. After the implementation of the required mitigation measures, the potential significant impacts would be reduced to less than

significant. No remaining significant impacts would occur. With respect to Aesthetics, although less than significant lighting impacts would occur, the MND includes mitigation measures that are recommended to further reduce less than significant light impacts. These measures include: (AES-1 and AES-2) allowing for remote shut off in the event of malfunction and conducting illumination level verification tests; and

WHEREAS, pursuant to CEQA Guidelines §15074, the Final MND reflects the City's independent judgment and analysis. The City Council has independently reviewed and analyzed the Final IS/MND 22-02 prepared for the Project. The Final IS/MND 22-02 is an accurate and complete statement of the potential environmental impacts of the project. The Final IS/MND 22-02 was prepared under the direction of the City of Oxnard Planning Division and reflects its independent judgment and analysis of the environmental impacts.

WHEREAS, the City Council, after due study, deliberation and public hearing that the following circumstances exist:

1. As outlined in Section 6(b) and Attachment F of the Planning Commission Staff report, the proposed Specific Plan Text Amendment is in conformance with the 2030 General Plan and other adopted policies of the City of Oxnard;
2. As outlined in Section 6(c) of the Planning Commission Staff report, the proposed Specific Plan Text Amendment is a logical refinement and internally consistent with the adopted RiverPark Specific Plan; and
3. As determined in the Final IS/MND 22-02, the proposed Development Agreement will not adversely affect or be materially detrimental to adjacent land uses, buildings or structures or to the public health, safety or general welfare;
4. As outlined in Section 6(c - e) of the Planning Commission Staff report, the proposed RiverPark Specific Plan Amendment conforms to adopted City standards and constitutes good City planning.

WHEREAS, the Applicant agrees that at its own expense, to indemnify and defend the City of Oxnard and its agents, officers and employees from and against any claims, actions or proceedings to attack, set aside, void or annul the approval of this ordinance or any actions or proceedings, acts or determinations taken, done or made before the approval of this ordinance that were part of the approval process.

NOW, THEREFORE, the City Council of the City of Oxnard does hereby 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 Riverpark Specific Plan Amendment is internally consistent with all other provisions of the City of Oxnard 2030 General Plan.

SECTION 3. The City Council finds that the Riverpark Specific Plan Amendment 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 Riverpark Specific Plan Amendment 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 RiverPark Specific Plan Amendment is the best use for the subject project site.

SECTION 6. The City Council determines that the RiverPark Specific Plan Amendment is in the best interests and welfare of the City and its residents.

SECTION 7. Pursuant to Government Code Section 65863.5, the City Clerk shall mail a copy of this ordinance to the Assessor of Ventura County within thirty (30) days from the adoption of this ordinance; and

SECTION 8. In recommending adoption of this ordinance for the Specific Plan Amendment, the City Council finds and determines the project is in compliance with the California Environmental Quality Act because Final MND No. 22-02 was considered by the Planning Commission at the public hearing for the Development Agreement. The Final MND No. 22-02 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. With implementation of the MND No. 22-02 mitigation measures, there is no substantial evidence that the proposed project will have a significant effect upon the environment.

SECTION 8. The RiverPark Specific Plan shall remain in full force and effect and shall apply to the property affected by this Ordinance.

SECTION 10. Pursuant to Government Code Section 36933(c)(1), the City Attorney was designated to prepare, and the City Clerk published, a summary of this Ordinance, and a certified copy the Ordinance was posted in the Office of the City Clerk a minimum of five days before the City Council's adoption of the Ordinance.

SECTION 11. The City Clerk shall certify as to the adoption of this ordinance and shall cause the summary thereof to be published within fifteen (15) days of the adoption and shall post a certified copy of this ordinance, including the vote for and against the same, in the office of the City Clerk, in accordance with Government Code Section 36933. Ordinance No. 3024 was introduced on March 21, 2023, altered on April 13, 2023 and finally adopted on May 2, 2023 to become effective thirty days thereafter.

PASSED AND ADOPTED this 2nd day of May 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Rose Chaparro, City Clerk

John C. Zaragoza, Mayor

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney

EXHIBIT A

SPECIFIC PLAN AMENDMENT TEXT Changes

PROPOSED AMENDMENTS TO CITY OF OXNARD RIVERPARK SPECIFIC PLAN

KEY: Blue Underlined = Proposed Additions
~~Red Strikethrough~~ = Proposed Deletions

3 COMMERCIAL MASTER PLAN

SECTION 3.5 BUILDING TYPE STANDARDS

Section 3.5.2 Standards for Each Building Type

- Type 1-C-A: Large Multistory Anchor
- Type 1-C-B: Large Pad Retail
- Type 1-C-C: Multistory Mini Anchor
- Type 1-C-D: Inline Retail
- Type 1-C-E: Inline Retail With Upper Story Office/Housing
- Type 1-C-F: Pad Restaurant/Retail
- Type 1-C-G: Drive Thru Commercial
- Type 2-C-A: Food and Wine Multistory
- Type 2-C-B: Food and Wine Demo Factory/Outlet Store
- Type 2-C-C: Food and Wine Pavilion/Office Building
- Type 3-C: Office Building
- Type 4-C: Hotel With Retail
- Type 5-C: Stand Alone Kiosk
- Type 6-C: Outparcel Commercial
- Type 7-C: Freeway Adjacent Digital Display Billboards

[. . .]

TYPE 7-C: Freeway Adjacent Digital Display Billboards

The following standards apply to lots for Freeway Adjacent Digital Display Billboards. If the lot contains other building types, the lot must comply with the minimum lot dimension standards required for that building type pursuant to this section, unless otherwise modified. Additional standards pertaining to Freeway Electronic Billboards can be found in Section 5.9 (Signage Standards) and the Oxnard City Code.

LOT DIMENSIONS

Lot Area Min: 1,000 SF Max: 15,000 SF

Lot Width Min: 10' Max: 300'

Lot Depth Min: 40' Max: 100'

SIZE AND SPACING

Billboard Face Display For allowable face size refer to the Oxnard City Code

Sign Height For allowable sign height refer to the Oxnard City Code

Setbacks Min: 0' (Freeway Adjacent Digital Display Billboards only)

Spacing For minimum spacing requirements refer to the Oxnard City Code

5 LANDSCAPE MASTER PLAN

5.5 EDGES AND BUFFERS STANDARDS

5.5.2 Design Concept for Edges and Buffers

5.5.2.1 The Ventura Freeway Frontage

Landscaping of RiverPark's frontage with the Ventura freeway at Planning Districts D, B and E shall be provided in a landscaped buffer zone. Landscaping in this area shall meet the requirements at two distinct scales: the scale of the freeway, and that of slower moving vehicles and pedestrians within RiverPark. Landscaping perceptible from the Ventura freeway will consist of a single row of 30-foot tall Mexican Fan Palms (at 30 feet O.C.) along the freeway frontage. These palms will clearly differentiate and identify RiverPark not only from the freeway but from the southern approach from Oxnard. For slower-moving vehicles and pedestrians, the zone will also be planted with an appropriate mix of native and indigenous grasses, perennials, shrubs, and trees. See Exhibit 5.AA for a typical cross-section. Properties developed with a Freeway Adjacent Digital Display Billboard in Planning Districts D, B and E shall be exempt from the requirements of this subsection.

5.9 SIGNAGE STANDARDS

[. . .]

5.9.3.11 Freeway Adjacent Digital Display Billboards

Freeway Adjacent Digital Display Billboards, as defined in the Oxnard City Code (OCC) shall be allowed in Planning Districts A and E, subject solely to the applicable regulations and procedures of OCC Chapter 9 Article IX. Advertising Signs.

ORDINANCE NO. 3025

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD APPROVING A DEVELOPMENT AGREEMENT AND LEASE OF PROPERTY (PLANNING AND ZONING PERMIT NO. 20-670-06) WITH OUTFRONT FOSTER INTERSTATE, LLC REGARDING PROPERTY LOCATED BETWEEN THE U.S. 101 AND RIVERPARK BOULEVARD APPROXIMATELY 850 FEET NORTH OF VINEYARD AVENUE IN THE NORTHERN PORTION OF THE CITY OF OXNARD. (APN: 132-0-311-075). FILED BY LARS SKUGSTAD, 1111 BROADWAY, SUITE 1515, OAKLAND, CA 94607 (THE “APPLICANT”) ON BEHALF OF THE CITY OF OXNARD (THE “PROPERTY OWNER”).

WHEREAS, on October 15, 2020, Lars Skugstad (the “Applicant” and/or “Permittee”) submitted a request to approve Planning and Zoning Permit Nos. 20-500-07 (Special Use Permit), 20-670-06 (Development Agreement), and 20-630-02 (Specific Plan Amendment) to allow for the installation and operation of an electronic billboard on an approximately 0.25-acre undeveloped site located between the U.S. 101 and Riverpark Boulevard approximately 850 feet north of Vineyard Avenue in the northern portion of the City of Oxnard; and

WHEREAS, the Planning Commission of the City of Oxnard (“**Planning Commission**”) considered an application for Planning and Zoning Permit No. 20-670-06 (“**Project**”), a Development Agreement and Lease of Property between the CITY OF OXNARD, a municipal corporation of the State of California (the “City”) and OUTFRONT FOSTER INTERSTATE LLC, a Delaware limited liability company (“OFI”) (collectively referred to “Applicant” or “Developer” in the record of proceedings); and

WHEREAS, the Development Agreement and Lease of Property (DA) shall allow for the use of City property for the purpose of a Freeway Adjacent Digital Display Billboard. The agreement also outlines the required public benefits to be provided by the future development, including fiscal benefits to the City. The proposed DA is included in Exhibit A to this Ordinance and incorporated by this reference; and

WHEREAS, on January 19, 2023, the Planning Commission of the City of Oxnard (“**Planning Commission**”) conducted a duly noticed public hearing where written and oral comments were received and reviewed to consider an application for a Development Agreement and Lease of Property (PZ 20-670-06) in accordance with Chapter 16-575 of the Oxnard City Code; and

WHEREAS, on January 19, 2023, the Planning Commission deliberated the merits of the Project and made a Motion of Intent to Deny the Project, subject to the preparation of a written Resolution of Denial to be considered at the Planning Commission meeting on February 2, 2023; and

WHEREAS, the Planning Commission adopted Resolution 2023-06 recommending that the City Council deny Planning & Zoning Permit No. 20-670-06 (Development Agreement); and

WHEREAS, on March 21, 2023, the City Council of the City of Oxnard conducted a duly noticed public hearing to consider both the request to approve Planning and Zoning Permit No. 20-670-06 (Development Agreement), both as originally negotiated with the Applicant and as recommended by the Planning Commission in accordance with the OCC; and

WHEREAS, the City Council received written and verbal comments from the public; and

WHEREAS, the City of Oxnard as the Lead Agency, prepared a Mitigated Negative Declaration (MND) in accordance with CEQA and the CEQA Guidelines. The MND identified and discussed potential impacts, mitigation measures, monitoring requirements, and residual impacts for identified subject areas. The MND found that the implementation of the proposed Project would result in potentially significant impacts associated with biological resources, cultural resources, and noise on wildlife species. Mitigation measures have been required to reduce each potentially significant impact to less than significant. The mitigation measures that have been required within the MND would reduce potential significant impacts. These measures include (BIO-1) conducting a pre-construction survey for active bird nests, and (CUL-1 and CUL-2) monitoring and collecting, if necessary, any discovered archaeological and paleontological resources. After the implementation of the required mitigation measures, the potential significant impacts would be reduced to less than significant. No remaining significant impacts would occur. With respect to Aesthetics, although less than significant lighting impacts would occur, the MND includes mitigation measures that are recommended to further reduce less than significant light impacts. These measures include: (AES-1 and AES-2) allowing for remote shut off in the event of malfunction and conducting illumination level verification tests; and

WHEREAS, pursuant to CEQA Guidelines §15074, the Final MND reflects the City's independent judgment and analysis. The City Council has independently reviewed and analyzed the Final IS/MND 22-02 prepared for the Project. The Final IS/MND 22-02 is an accurate and complete statement of the potential environmental impacts of the project. The Final IS/MND 22-02 was prepared under the direction of the City of Oxnard Planning Division and reflects its independent judgment and analysis of the environmental impacts.

WHEREAS, the City Council considered Final IS/MND 22-02 prior to making determinations on the Project; and

WHEREAS, the City Council finds, after due study, deliberation and public hearing, that the proposed Development Agreement and Lease of Property is consistent with the 2030 General Plan; and

WHEREAS, the pursuit of the Development Agreement and Lease of Property is a reasonable exercise of the City's police powers to ensure the continued health, safety, and welfare of the public by public benefits for the residents of the City of Oxnard; and

WHEREAS, the City Council finds, after due study, deliberation and public hearing that the following circumstances exist:

1. As outlined in Section 6(b) and Attachment F of the Planning Commission Staff report, the proposed Development Agreement and Lease of Property is in conformance with the 2030 General Plan and other adopted policies of the City of Oxnard;
2. As determined in the Final IS/MND 22-02, the proposed Development Agreement of Lease of Property will not adversely affect or be materially detrimental to adjacent land uses, buildings or structures or to the public health, safety or general welfare;
3. As outlined in Section 6(c - e) of the Planning Commission Staff report, the proposed Development Agreement and Lease of Property in association with the related projects conforms to adopted City standards and constitutes good City planning.

WHEREAS, the Applicant agrees that at its own expense, to indemnify and defend the City of Oxnard and its agents, officers and employees from and against any claims, actions or proceedings to attack, set aside, void or annul the approval of this ordinance or any actions or proceedings, acts or determinations taken, done or made before the approval of this ordinance 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 into the operative provisions of this Ordinance by this reference.

SECTION 2. The City Council finds that the Development Agreement and Lease of Property is internally consistent with all other provisions of the City of Oxnard 2030 General Plan.

SECTION 3. The City Council finds that the Development Agreement and Lease of Property 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 Development Agreement and Lease of Property 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 development that would be authorized for the project site by the proposed Development Agreement and Lease of Property is the best use for the subject project site.

SECTION 6. The City Council determines that the Development Agreement and Lease of Property is in the best interests and welfare of the City and its residents.

SECTION 7. In recommending adoption of this ordinance for the Development Agreement and Lease of Property, the City Council finds and determines the project is in compliance with the California Environmental Quality Act because Final MND No. 22-02 was considered by the Planning Commission at the public hearing for the Development Agreement and Lease of Property. The Final MND No. 22-02 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. With implementation of the MND No. 22-02 mitigation measures, there is no substantial evidence that the proposed project will have a significant effect upon the environment.

SECTION 8. Based on the findings set forth herein, the City Council approves Planning and Zoning Permit No. 20-670-06 (Development Agreement No. A-8515), Exhibit A, hereto attached.

SECTION 9. Planning and Zoning Permit No. 20-670-06 (Development Agreement No. A-8515) is approved pursuant to Exhibit A.

SECTION 10. Pursuant to Government Code Section 65863.5, the City Clerk shall mail a copy of this ordinance to the Assessor of Ventura County within thirty (30) days from the adoption of this ordinance; and

SECTION 11. Pursuant to Government Code Section 36933(c)(1), the City Attorney was designated to prepare, and the City Clerk published, a summary of this Ordinance, and a certified copy the Ordinance was posted in the Office of the City Clerk a minimum of five days before the City Council's adoption of the Ordinance.

SECTION 12. The City Clerk shall certify as to the adoption of this Ordinance and shall cause the summary thereof to be published within fifteen (15) days of the adoption and shall post a certified copy of this ordinance, including the vote for and against the same, in the office of the City Clerk, in accordance with Government Code Section 36933. Ordinance No. 3025 was introduced on March 21, 2023, altered on April 13, 2023, and finally adopted on May 2, 2023 to become effective thirty days thereafter.

PASSED and ADOPTED this 2nd day of May 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Rose Chaparro, City Clerk

John C. Zaragoza, Mayor

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney

Ordinance No. 3025
Development Agreement (PZ 20-670-06)
Development Agreement No. A-8515
Page 6 of 6

EXHIBIT A
DEVELOPMENT AGREEMENT

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

City of Oxnard
305 West Third Street
Oxnard, California 93030
Attention: City Clerk

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

DEVELOPMENT AGREEMENT AND LEASE OF REAL PROPERTY

THIS DEVELOPMENT AGREEMENT AND LEASE OF REAL PROPERTY (“Agreement”) is made in Ventura County, California as of April 13, 2023 by and between the CITY OF OXNARD, a municipal corporation of the State of California (“City”) and OUTFRONT FOSTER INTERSTATE LLC, a Delaware limited liability company (“OFI”). The City or OFI may be referred to individually as a “Party” and collectively as the “Parties.”

RECITALS

A. The City and OFI entered into that certain Exclusive Negotiation Agreement (“ENA”) on June 19, 2019 regarding the lease of certain City property for freeway oriented digital billboards (“ENA Property”), which consists of that certain real property in the City of Oxnard, County of Ventura more particularly described in **Exhibit A** attached hereto and incorporated herein by this reference.

B. The City and OFI have entered into a First Amendment to the ENA dated November 13, 2019, a Second Amendment to the ENA, dated May 28, 2020, a Third Amendment to the ENA dated November 17, 2020, a Fourth Amendment to the ENA dated June 17, 2021, a Fifth Amendment to the ENA dated December 14, 2021, a Sixth Amendment to the ENA dated June 7, 2022 and a Seventh Amendment to the ENA dated December 6, 2022. As of the date of this Agreement, the ENA is still in full force and effect and OFI retains exclusive rights relating to the Property. Based upon the ENA, OFI has a legal or equitable interest in the ENA Property during the term of the ENA.

C. City is authorized, pursuant to Government Code sections 65864 through 65869.5 (the “Development Agreement Statute”) and City Council Resolution No. 10,488, to enter into binding development agreements with persons or entities with legal or equitable interests in real property located within the City in order to vest certain rights in the person or entity with the legal or equitable interest in such property.

D. City and OFI each mutually desire to enter into this Agreement to permit and ensure that a portion of the ENA Property, which consists of that certain real property in the City of Oxnard, County of Ventura more particularly described in **Exhibit B** attached hereto and incorporated herein by this reference (“Property”), is developed with a double-sided freeway oriented digital billboard (hereafter, the “Project”), and that such billboard is developed strictly

in accordance with the provisions of this Agreement, the Project Approvals (defined below), and associated entitlements.

E. The City has determined that it is in the best interests of City, and for the common benefit of the citizens residing in City, to enter into this Agreement with OFI for the construction, operation, maintenance, and repair of the Billboard (as that term is defined below) on the Property, subject to (i) OFI obtaining specific entitlements and approvals from Caltrans and the City, including a Specific Plan amendment and a Special Use Permit; and (ii) OFI agreeing to fully comply with all of the provisions of this Agreement, including the payment of specific financial considerations that are in the public interests.

F. To comply with the California Environmental Quality Act ("CEQA"), on March 21, 2023, at a duly noticed public hearing, the City Council certified the Mitigated Negative Declaration (SCH # 2022060706), as described more fully in Resolution _____, adopted a Mitigation, Monitoring, and Reporting Plan, and made the required CEQA findings.

G. On March 21, 2023, at a duly noticed public hearing, the City Council approved a Special Use Permit for the Project, with such approval contingent on City Council approval of the RiverPark Specific Plan amendment for the Project, as provided in Resolution _____. Previously, the Planning Commission considered and recommended denial of the amendment to the RiverPark Specific Plan for the Project and recommended that the City Council deny this Agreement by ordinance.

H. On March 21, 2023, the Oxnard City Council ("City Council"), having received the Planning Commission's recommendations, held a duly noticed public hearing, voted to approve the amendment to the RiverPark Specific Plan for the Project, and introduce the ordinance to approve this Agreement. On April 13, 2023 the City Council adopted Ordinance _____ approving the Agreement.

I. The Planning Commission and City Council have each given notice of their intention to consider this Agreement, have each conducted the required public hearings thereon. While the Planning Commission did not recommend approval of this Development Agreement and Special Use Permit, the City Council found that the provisions of this Agreement are consistent with the City of Oxnard General Plan for development within the City, City zoning ordinances, and the RiverPark Specific Plan, as amended on March 21, 2023. The City Council has also specifically considered the impacts and benefits of the Project upon the welfare of the residents of the City and the surrounding region. The City Council has determined that this Agreement is beneficial to the residents of the City and is consistent with the present public health, safety and welfare needs of the residents of the City and the surrounding region.

NOW, THEREFORE, in consideration of the foregoing Recitals which are hereby incorporated into the operative provisions of this Agreement by this reference and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the City and OFI agree as follows:

AGREEMENT

1. **Definitions.** For purposes of this Agreement, unless a different meaning is clearly required, the following terms will have the following meanings and be capitalized throughout this Agreement:

1.1 “Annual Net Revenue” means all income actually received by OFI in connection with the sale of advertising space on the Billboard (net of any commissions paid by OFI to advertising agencies, not to exceed 16-2/3%). For the purposes hereof, any income described in this definition will not include the value of any in kind usage of the Billboard by the City.

1.2 “Applicable Rules” means the rules, regulations and official policies of the City which were in force as of the Effective Date (as defined below), including, but not limited to, the General Plan, the Specific Plan (as defined below) and entitlements for the Project including, but not limited to, the Special Use Permit.

1.3 “Billboard” shall mean that double-sided freeway-oriented digital billboard contemplated to be developed on the Property pursuant to the Applicable Rules. OFI shall be responsible for the construction, operation, maintenance, and repair of the Billboard, subject to the terms and conditions of this Agreement.

1.4 “Caltrans Permits” means all permits and approvals, if any, that OFI must obtain from Caltrans and subsequently assign to the City to construct, operate, maintain, and repair the Billboard in accordance with this Agreement.

1.5 “City Council” shall mean the City Council of the City.

1.6 “City Manager” shall mean the City Manager of the City.

1.7 “Effective Date” means the date on which the ordinance approving this Agreement, as required by Government Code section 65867.5, becomes effective.

1.8 “General Plan” means the City of Oxnard 2030 General Plan adopted in October of 2011 and updated in December of 2016.

1.9 “Hazardous Materials” means any and all pollutants, wastes, flammables, explosives, radioactive materials, hazardous or toxic materials, hazardous or toxic wastes, hazardous or toxic substances, carcinogenic materials or contaminants and all other materials governed, monitored, or regulated by any Federal, State or local Law or regulation, including the Comprehensive Environmental Response, Compensation and Liability Act, the Hazardous Substances Account Act, and/or the Resources Conservation and Recovery Act, together with asbestos, asbestos-containing materials, hydrocarbons, polychlorinated biphenyl (“PCB”) or PCB-containing materials, petroleum, gasoline, petroleum products, crude oil or any fraction, product or by product thereof.

1.10 “Hazardous Materials Laws” means all laws, codes, rules, orders, ordinances, directives, regulations, permits, or other requirements of federal, state, county,

municipal or governmental authorities having jurisdiction, now in force or which may hereafter be in force concerning the management, use, generation, storage, transportation, presence, discharge or disposal of Hazardous Materials.

1.11 “MAG” or “Minimum Annual Guarantee” has the definition given such term in Section 7.1(a).

1.12 “Off-site Outdoor Advertising Sign” means a general outdoor advertising sign that directs attention to a business, profession, commodity, service or entertainment which is conducted, sold or offered at a location other than on the same lot or parcel upon which the sign is located.

1.13 “Operational” refers to the time when the Billboard is fully capable, legally and functionally, of displaying advertising on the digital display.

1.14 “Operational Date” is the date when the Billboard is Operational.

1.15 “Periodic Review” shall have the meaning assigned to such term in Section 36.

1.16 “Planning Commission” shall mean the Planning Commission of the City.

1.17 “Rent” means the MAG described in Section 7.1 and, as applicable, Percentage Rent described in Section 7.2.

1.18 “Project Approvals” shall mean and refer to the RiverPark Specific Plan as amended on March 21, 2023 and the Special Use Permit approved on March 21, 2023.

1.19 “Specific Plan” shall mean the RiverPark Specific Plan. As amended on March 21, 2023.

2. **Initial Term.** The “Initial Term” of this Agreement will begin on the Operational Date and will expire on the thirtieth (30th) year anniversary thereof. The Parties acknowledge that Government Code section 65868.5 requires the City to record this Agreement with the Ventura County Recorder’s Office no later than ten (10) days after the Parties enter into this Agreement and that the burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the Parties hereto, subject to the assignment provisions in Section 37.5 below.

3. **Tolling for Third Party Lawsuit.** If any third party files a lawsuit to challenge this Agreement, the City’s CEQA determination made in connection with its consideration of this Agreement and/or the Project Approvals (each, a “Third-Party Lawsuit”), OFI may request that the Initial Term be tolled during the pendency of the Third-Party Lawsuit by providing a written notice (“Tolling Notice”) to City within thirty (30) days after the commencement of the Third-Party Lawsuit, and said request shall be granted by City. The tolling of the Initial Term shall automatically begin upon City’s receipt of the Tolling Notice, and it shall end on the earliest of the following to occur: (A) the date on which a court issues a final judgment in the

Third-Party Lawsuit and the expiration of all appeal period(s) following that judgment; (B) the date the Third-Party Lawsuit is dismissed; or (C) one (1) year from the date of issuance of the Tolling Notice.

4. **Tolling for Initiative or Referendum.** If the subject of an initiative or referendum petition would overturn, set aside, or substantially modify this Agreement, the other Project Approvals, or otherwise substantially impair the development of the Project, the Initial Term of this Agreement shall be tolled under this Section 4. The Term shall be automatically tolled beginning on the date that the initiative or referendum petition is submitted to the Ventura County elections official for signature verification, and ending on the date the last of the following occurs: (A) the date the County elections official determines the petition does not include a sufficient number of signatures; (B) the date the measure is voted on by the Council; or (C) the date of the election on the measure, if placed on the ballot. Notwithstanding any language in Sections 3 and 4 to the contrary, the total length of extension of the Initial Term shall not exceed one (1) year from the date the initiative or referendum petition is submitted to the Ventura County elections official for signature verification.

5. **Implementation and Development of the Project.**

5.1 **Permitted Uses.** OFI agrees that Property shall only be developed in accordance with this Agreement and the Project Approvals.

5.2 **Subsequent Action and Approval.** The City agrees not to unreasonably withhold, condition or delay any action or approval by the City which may be required by the Project subsequent to the execution of this Agreement.

6. **Vested Right to Develop the Project.** Subject to Section 9 below and the Applicable Rules, the City hereby grants to OFI the vested right to develop the Project on the Property in accordance with this Agreement and the Project Approvals. Other than the Project Approvals and this Development Agreement, development of the Project as described in this Agreement shall require no further discretionary approvals by the City. City and OFI intend to cause all development rights which may be required to develop the Project in accordance with the Project Approvals to be deemed vested in OFI for the Initial Term to the greatest extent permitted by law.

7. **Rent.**

7.1 **Rent.** Rent, as set forth in this provision, shall commence on the Operational Date.

(a) **Minimum Annual Guarantee (MAG).** Each year, OFI shall pay City the Minimum Annual Guarantee (the "MAG") in the initial amount of \$150,000 per year, starting on the Operational Date, in accordance with the terms set forth in this Section.

<u>Term</u>	<u>Rent</u>
<u>Years 1-30</u>	<u>\$150,000</u>

(b) Manner of Payment. An annual prorated share of the MAG is due and payable on a calendar quarter basis, commencing within forty-five (45) days of the Operational Date and within ten (10) days following the beginning of each calendar quarter occurring thereafter without notice, demand, offset or deduction. OFI shall remit the MAG to City at the address designated by City in writing to OFI for the payment of Rent. For any portion of the Initial Term that is less than a full calendar quarter, the MAG shall be prorated based on the number of days occurring during such calendar quarter and actual number of days in such calendar quarter.

(i) Late Charge. If OFI fails to pay any installment of MAG within ten (10) calendar days after the same is due and payable, such unpaid amount will be subject to a late payment charge equal to five percent (5%) of the unpaid amount in each instance; provided, however, OFI shall not be assessed with the foregoing late payment charge with respect to the first (1st) late payment in any consecutive twelve (12) month period unless and until OFI fails to make such payment to City within three (3) business days after written notice from City that it failed to receive such amounts within the time period set forth above. Following the first (1st) late payment in any calendar year, no notice by City shall be required for purposes of collecting a late payment charge. The late payment charge has been agreed upon by City and OFI, after negotiation, as a reasonable estimate of the additional administrative costs and detriment that City will incur as a result of any such failure by OFI, the actual costs thereof being extremely difficult—if not impossible—to determine. The late payment charge constitutes liquidated damages to compensate City for its damages resulting from such failure to pay, and OFI shall promptly pay such charge to City together with any unpaid interest

(ii) Default Interest. If any MAG is not paid within ten (10) calendar days following the due date, such unpaid amount will bear simple interest at the rate of 10% per year or the maximum permitted by law, whichever is lower (“Default Rate”) from the due date until paid. However, interest will not be payable on late charges incurred by OFI, nor on any amounts on which late charges are paid by OFI to the extent this interest would cause the total interest to be in excess of that which an individual is lawfully permitted to charge. Payment of interest will not excuse or cure any default by OFI.

(iii) Application of Payments. All payments received by City from OFI will be applied to the oldest obligation owed by OFI to City. No designation by OFI, either in a separate writing, on a check or money order, or otherwise will modify this Article 5 or have any force or effect.

7.2 Additional Consideration

(a) Percentage Rent. To the extent that the MAG for the 12-month period commencing on the Operational Date or anniversary of the Operational Date (“Agreement

Year”) during the Initial Term is less than 30% of the Annual Net Revenue for that Agreement Year (the difference being referred to herein as “Percentage Rent”), OFI shall pay to City, in addition to the MAG, within thirty (30) days after the end of the relevant Agreement Year, and to the extent applicable, the Percentage Rent.

(i) Reports. OFI shall furnish to City an annual statement of Annual Net Revenue within thirty (30) days after the end of each Agreement Year. Such statement shall be in a form acceptable to City. Each statement shall be signed and certified to be correct by a duly authorized officer of OFI. OFI shall keep and make available at its local office at Outfront Media, 1520 N. Cahuenga Blvd., Los Angeles, California 90028 complete and materially accurate books of account, records, cash receipts and other pertinent data, in accordance with good accounting practices and in a form approved by City, showing the Annual Net Revenue, including without limitation, materially accurate records of every sale and other transaction made for any advertising display on the Billboard and any commissions paid by OFI pursuant to this Agreement. Such books of account, records, cash receipts and other pertinent data shall be kept for a period of no less than four (4) years after the end of each Agreement Year. The receipt by City of any statement, or any payment of Percentage Rent for any period, will not bind City as to the correctness of the statement or payment.

(ii) Inspection and Audit. City, at its sole option, will be entitled, at any time and from time to time during the Initial Term and during normal business hours and with prior written notice to OFI, to inspect, examine, copy and audit OFI's books, records and cash receipts as related to Annual Net Revenue. OFI shall cooperate fully with City and City's agents in making the examination. City, at its option, will also be entitled once during each Agreement Year and once after the termination of this Agreement, to cause an independent audit of such records to be performed by a certified public accountant designated by City, provided such accountant is not paid on a contingency fee basis. The audit will be conducted during usual business hours at OFI's office located at Outfront Media, 1520 N. Cahuenga Blvd., Los Angeles, California 90028, unless another location is mutually agreed upon. If the audit shows that there is a deficiency in the payment of any Percentage Rent, then OFI shall promptly upon notice pay the deficiency to City which payment will not require any penalty or other late fee. City will pay the costs of the audit unless the audit shows that OFI understated Annual Net Revenue by more than three percent (3%) in which case OFI will pay all reasonable out-of-pocket costs paid to third party consultants and incurred by City in connection with the audit.

(b) City Usage. City shall have the right to use 2 out of 16 spots (1 per face) for the Billboard (such usage “City Usage”). Content displayed on the Billboard in connection with City Usage shall be displayed (subject to the terms of this Agreement) during the operation of the Billboard in increments, at the times of day and otherwise in the same manner as the commercial advertising displayed by OFI on the Billboard. Subject to the terms of this Agreement, City may use such time to promote any purpose that City, in its sole discretion determines best serves the needs of the City and residents, including but not limited to advertising City events and programs. City will submit “camera ready” artwork to OFI, at no cost to OFI, for display purposes. City agrees that for any City Usage City will provide OFI with prior written notice of its desire for City Usage, City will provide OFI with the copy or text of such messages not less than ten (10) business days prior to the date such messages are to appear on the Billboard, and City Usage shall be limited to messages for the civic and public purposes

described in this Section and will not be used directly or indirectly for any types of messaging or advertising which OFI would otherwise be able to sell to third parties in the ordinary course of OFI's business. City represents and warrants that all advertising materials and content supplied by City to OFI for display in connection with City Usage, (i) are owned or duly licensed by City and do not infringe or misappropriate the rights of any other person or entity, (ii) comply with all applicable federal, state, and local laws, rules and regulations and any industry codes or rules by which the parties may be bound and do not contain any obscene, libelous, slanderous or otherwise defamatory materials or refer in an offensive manner to the gender, race or ethnicity of any individual or group; (iii) are not false; and (iv) do not infringe upon any copyright, trademark or other intellectual property or privacy right of any third party. City hereby agrees to indemnify, defend and save harmless OFI against any and all claims, liabilities, losses, damages, fees and expenses arising out of or in connection with the City Usage, including but not limited to any claim for defamation, or infringement of any copyright, trademark, or other intellectual property or privacy right and reasonable attorneys' fees and expenses incurred in defending any such claims. Notwithstanding any language in this Section 7.2(b) to the contrary, City Usage shall not include any "political advertising," which means advertising that promotes or opposes any candidate for public office or promotes or opposes a ballot measure, referendum, bond issue, or any federal, state or local legislation, regulation, or other discretionary action.

(c) Emergency Notifications. Without any offset in the City Usage described above and at no cost to the City and as further consideration for the use and occupancy of Property, Outfront shall make the Billboard available to Caltrans and the California Highway Patrol for purposes of "Amber Alerts" and for emergency or disaster notifications by local, state or federal agencies.

(d) Discount for Oxnard Auto Dealers and West Ventura County Business Alliance Members. For the Initial Term of this Agreement, Oxnard Auto Dealers and members of the West Ventura County Business Alliance shall receive a ten percent (10%) discount from the rates to advertise on the Billboard.

8. Advertising. OFI may not display any message that: is inherently false, misleading, or libelous (i.e., speech that is incapable of being presented in a manner that is not misleading); promotes the sale or use of firearms or tobacco products, whether directly or indirectly; promotes adult entertainment, products, conventions, events, or websites; contains "obscene matter," as that term is defined in local, California or federal law, including but not limited to any statements or words of an obscene, indecent or immoral character, or any picture or illustration of any human figure in such detail as to offend public morals or decency or any other matter or thing of an obscene, indecent or immoral character; contains language that presents a clear-and-present danger of causing riot, disorder, or other imminent threat to public safety, peace, or order. OFI shall, within 48 hours after written demand from City, at OFI's risk and expense, remove any advertising material or message that does not comply with the advertising criteria set forth in this Section, and which is not being disputed by OFI. If OFI fails to promptly cause the removal of such advertising, City may (but is not required to), without further process of law, cause the removal of the advertising. OFI shall reimburse City's costs of such actions upon demand and will bear the risk of any damage to the Billboard resulting from such actions. City may exercise such remedies without prejudice to any other remedies it may be entitled to exercise under this Agreement, at law or in equity. OFI agrees to ensure that

businesses or organizations located within the City or residents of the City will be able to purchase advertising on the Billboard in such manner and at such rates as offered to businesses, organizations or persons located or residing outside of the City and that it will not permit any exclusivity contracts or arrangements with advertisers that would violate this covenant.

9. **Subsequent Applicable Rules.** Rules, regulations and official policies of the City, including but not limited to the General Plan, the Specific Plan, zoning and other development regulations adopted after the Effective Date of this Agreement (“Subsequent Applicable Rules”) shall not be applicable to or binding upon the Project unless they are otherwise expressly allowed by this Agreement or are consented to in writing by OFI. The City shall not require OFI to obtain any approvals or permits for the development of the Project other than those permits or approvals which are required by the Applicable Rules. This Agreement will bind the City to the terms and obligations specified in this Agreement.

10. **No Conflicting Enactments.** The City shall not enact rules, regulation, ordinances or other measures which limit or control the development of any part of the Project which is inconsistent or in conflict with this Agreement.

11. **Moratorium or Initiative Measures.** OFI and the City intend that no moratorium or other limitation (whether relating to the rate, timing or sequence of the development of the Project and whether enacted by initiative or otherwise) affecting building permits or other entitlements shall apply to the Project to the extent such moratorium or other limitation is inconsistent with or conflicts with this Agreement.

12. **Legal Challenges.** City agrees to cooperate with OFI in all reasonable manners in order to keep this Agreement in full force and effect. Notwithstanding the preceding sentence, in the event of any legal action instituted by a third party or other government entity or official challenging the validity of this Agreement, the City and OFI agree to cooperate in defending such action, with OFI to indemnify the City pursuant to this Agreement. In the event of any litigation challenging the effectiveness of this Agreement or any portion thereof, this Agreement shall remain in full force and effect while such litigation, including any appellate review, is pending, unless a court of competent jurisdiction orders otherwise.

13. **Events of Default; Early Termination.**

13.1 **Defaults by OFI.** OFI will be in default under this Agreement (“Default”) upon occurrence of any of the following:

(a) OFI is at any time late in the payment of Rent or any other monetary sum called for by this Agreement and fails to make payment within thirty (30) days following a written notice to cure from City to OFI; or

(b) OFI fails to keep and perform any of its other covenants or agreements contained in this Agreement and such failure continues for more than thirty (30) days after a written notice to cure from City to OFI specifying, the obligation which OFI has failed to perform. Where it will reasonably take OFI more than thirty (30) days, as calculated from receipt of written notice from the City to cure the default and come into compliance with

applicable covenants or agreements, the 30-day period shall be extended for a reasonable time to allow OFI to come in to compliance and OFI shall be in Default under this Agreement if it has failed to commence such cure within such 30-day period and has failed to diligently pursue completion of such cure; or

(c) After receipt of a written notice to cure from the City, OFI fails to cure within thirty (30) days and abandons and ceases to use the Property; or

(d) The Billboard is not Operational by the one (1) year anniversary of the later of: (i) OFI's receipt of approval from Caltrans for the Caltrans Permits, and (ii) OFI's receipt of all other approvals, permits and entitlements and associated CEQA review from the City and any other relevant responsible agencies for construction and other work related to the Billboard. The one (1) year anniversary shall, however, be tolled in the event of the filing of third party lawsuits, initiatives, or referenda, as specified in Sections 3 and 4.

13.2 City's Remedies for Default by OFI. Upon the occurrence and during the continuance of any Default identified in Section 13.1, in addition to any and all other rights or remedies of City hereunder, City will have the sole option to exercise the following rights and remedies:

(a) City may terminate this Agreement if OFI is in default and fails to cure as provided in Section 13.1(a)-(c), or is in default as provided in Section 13.1(d), including any applicable tolling period.

(b) Except as provided in subdivision (c) below, in the event of a default by OFI, City shall have the right to: (i) bring any proceeding in the nature of specific performance, injunctive relief, declaratory relief, or mandamus and/or; (ii) bring any action to compensate City for OFI's specific obligations to the City pursuant to this Agreement.

(c) In the event that a third party lawsuit, referendum, or initiative has been filed that triggers the tolling provisions in Sections 3 and 4 and such lawsuit, referendum, or initiative has not been resolved, dismissed, terminated, or otherwise completed within the one (1) year tolling period, the City's sole remedy for OFI's failure to make the Billboard Operational as provided in Section 13.1(d), shall be to terminate this Agreement.

13.3 City Remedies Cumulative. Each right and remedy of City provided for herein will be cumulative and will not preclude City from exercising any other rights or remedies provided for in this Agreement. No payment by OFI of a lesser amount than the Rent nor any endorsement on any check or letter accompanying any check or payment of Rent will be deemed an accord and satisfaction of full payment of Rent; and City may accept such payment without prejudice to City's right to recover the balance of such Rent or to pursue other remedies.

13.4 Default by City. City will not be in default under this Agreement unless City fails to perform obligations required of City within thirty (30) days after written notice is delivered by OFI to City specifying the obligation which City has failed to perform; provided, however, that if the nature of City's obligation is such that more than thirty (30) days are required for performance, then City will not be in default if City commences performance within such 30-

day period and thereafter diligently prosecutes the same to completion. All obligations of City hereunder will be construed as covenants, not conditions.

13.5 OFI's Remedies for Default by City. Upon the occurrence and during the continuance of any Default by City identified in Section 13.4, OFI will have the sole option to exercise the following rights and remedies:

(a) OFI may terminate this Agreement if City is in default and fails to cure as provided in Section 13.4.

(b) In the event of a default by City, OFI shall have the right to: (i) bring any proceeding in the nature of specific performance, injunctive relief, declaratory relief, or mandamus and/or; (ii) bring any action to compensate OFI for City's specific obligations to OFI pursuant to this Agreement.

13.6 OFI Remedies Cumulative. Each right and remedy of OFI provided herein will be cumulative and will not preclude OFI from exercising any other rights or remedies provided for in this Agreement.

13.7 OFI's Early Termination Rights. OFI may terminate this Agreement effective 30 days after OFI gives the City written notice of termination, if any of the following circumstances occur:

(a) The view of the Billboard's display area from the portion of U.S. 101 adjacent to the Property is materially obstructed, and OFI did not cause the obstruction.

(b) OFI cannot safely use the Property to renovate, operate, maintain, repair, or improve the Billboard because of a non-remediable condition, and OFI did not cause the condition.

(c) There is a material diversion of traffic from, or a material reduction or change in the directional flow of traffic on, the portion of U.S. 101 adjacent to the Property, and the diversion or disruption continues uninterrupted for at least six (6) consecutive months.

(d) Through no fault of its own, OFI cannot obtain or maintain the governmental permits required to construct, operate, maintain, and repair the Billboard, including the Caltrans Permits and City permits, or there is a legal challenge to such permits and approvals, including, but not limited to, any challenges under CEQA, and OFI elects, in its sole discretion, not to oppose such challenges, OFI may withdraw its applications for approval and terminate this Agreement.

(e) Use of the Billboard for its intended purpose is prevented or limited by law, or OFI is required by any court or other governmental entity, for reasons other than eminent domain, to remove the Billboard from the Property.

(f) The City is in default of this Agreement, and said default is not timely cured.

13.8 Consequential and Punitive Damages. Anything in this Agreement to the contrary notwithstanding, neither City nor OFI shall be liable to each other under or in connection with this Agreement for any consequential or punitive damages and each party waives, to the full extent permitted by applicable laws, any claim for consequential or punitive damages, and any claim for loss of business or profits.

14. **Insurance.**

14.1 Types of Policies. During the Initial Term and, if OFI is removing the Billboard, during OFI's removal of the Billboard, at no cost to City except as otherwise contemplated by this Agreement, OFI shall procure and maintain the forms and amounts of insurance covering OFI's possession and use of the Property set forth below ("OFI's Insurance"). OFI's Insurance shall be primary to and not contributing with any other insurance, self-insurance or joint self-insurance maintained by City, and shall name the City as an additional insured.

14.2 Commercial General Liability Insurance. A policy of commercial general liability insurance (occurrence form) having a limit of Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) annual aggregate, providing coverage for blanket contractual liability (including OFI's indemnification obligations under this Agreement), products and completed operations liability, broad form property damage, and bodily injury (including wrongful death) and advertising injury coverage.

14.3 Workers' Compensation and Employer's Liability Insurance. Workers' compensation insurance, if required by law, which complies with all applicable state statutes and regulatory requirements, and employer's liability insurance coverage in statutory amounts. OFI shall also require any contractor utilized to perform any services or work at the Property pursuant to this Agreement to maintain such workers' compensation insurance and provide proof of such insurance prior to commencing any services or work at the Property.

14.4 Other Insurance. Any other form or forms of insurance as City may reasonably require from time to time, in form, amounts and for insurance risks against which a prudent OFI would protect itself, but only to the extent such risks and amounts are available in the insurance market at commercially reasonable costs.

15. **City's Right to Enter and Inspect the Property.** City and its authorized representatives will have the right to enter upon and inspect the Property at reasonable times (and on no less than forty-eight (48) hours' notice) to determine OFI's compliance with this Agreement.

16. **Notification of Incidents.** OFI shall endeavor to notify City within forty-eight (48) hours after OFI has actual knowledge of the occurrence of any accident or event on or about the Billboard, the Property, any portion thereof, or any improvements thereon and which OFI actually determines could give rise to a claim against City, City's insurance, OFI, or OFI's Insurance, except that OFI will not be so obligated with respect to any accident or event which could give rise to a claim under OFI's workers' compensation insurance. OFI's notice shall be accompanied by a copy of any report(s) relating to such accident or event.

17. **Nonexclusive Easements.** The City reserves the right for itself and others in the future to establish nonexclusive utility easements (including easements for construction, maintenance, repair, replacement and reconstruction) over, under, through or on the Property in locations that will not interfere with OFI's use of the Property as contemplated by this Agreement. Under no circumstances shall the City permit the construction of any improvement on the Property, or adjacent City-owned properties, that will obstruct views of the Billboard from US 101. OFI will not be required to maintain or repair the utility easements unless OFI has caused the need to repair.

18. **Expiration of Agreement; Holding Over.** This Agreement will expire at the end of the Initial Term. If OFI holds over on the Property after the expiration of the Initial Term with the consent of City, such holding over will be construed to be only a tenancy from month to month, subject to all the covenants, conditions and obligations contained in this Agreement that applied at the expiration of the Initial Term. If OFI does hold over on the Property after the Initial Term, then OFI agrees to pay City as monthly rental an amount which is equal to 1/12th of the annual Rent paid by OFI to City during the last year of the Initial Term.

19. **Condition of Property.** The Property and all improvements thereon, are being leased to OFI in its current, existing, "AS IS" condition. City makes no representations or warranties of any kind, express or implied, written or oral, about any of the following: the physical condition of the Property; the suitability of the Property for OFI's anticipated use; any limitations on OFI's use of the Property; the costs of conducting OFI's business on the Property; or the condition of the soils or ground waters of the Property. By taking possession of the Property, OFI accepts the Property "AS IS" and acknowledges that the Property are satisfactory for OFI's purposes. OFI has ascertained the condition of the Property through its own independent investigation and has relied solely on that independent investigation when entering into this Agreement.

20. **Permitted Uses.** Subject to any City Usage, OFI has the exclusive right to display an Off-site Outdoor Advertising Sign on the Property consistent with **Exhibit C**. City will not authorize any other Off-site Outdoor Advertising Signs on the Property. OFI's right to construct an Off-site Outdoor Advertising Sign on the Property includes the right to the following uses: constructing, operating, maintaining, and repairing, the Billboard, and any utilities installed in connection with the Billboard; installing and maintaining utility wires, poles, cables, conduits, and pipes over or under the Property from the nearest accessible public right-of-way that support the permitted operations of the Billboard; and all rights of ingress and egress over the Property that OFI needs to access the Billboard. Subject to the City's sole and absolute discretion as property owner, as well as the regulator through any generally applicable permit process, OFI may sublease the Property for telecommunications facilities on the Billboard with the written approval of the City and with any such revenue considered part of Annual Net Revenues. Such telecommunications facilities shall be "stealth;" not affect the aesthetic or structural integrity of the Billboard in the City's discretion.

21. **Prohibited Uses.** Hazardous Substances. Neither OFI nor any of OFI's representatives or agents may use, handle, store, transport, treat, generate, release or dispose of any Hazardous Materials anywhere in, on, under or about the Property, the Billboard, or any improvements thereon. Notwithstanding the foregoing, OFI may use, handle, store, transport,

treat, generate, release or dispose of any Hazardous Materials in such limited amounts as are customarily used to construct, operate, maintain, or repair the Billboard in accordance with this Agreement, and so long as OFI is at all times in full compliance with all applicable environmental laws. OFI shall cause any and all Hazardous Materials brought onto, used, generated, handled, treated, stored, released or discharged by OFI or its authorized representatives on or under the Billboard, the Property, or any improvements thereon to be removed therefrom and transported for disposal in accordance with applicable laws, including Hazardous Materials Laws. City will have the right to enter the Property, or any improvements thereon, from time to time to conduct tests, inspections and surveys concerning Hazardous Materials and to monitor OFI's compliance with its obligations concerning Hazardous Materials and Hazardous Materials Laws (the City agrees that all such testing, inspections, surveys and monitoring will be at the City's expense unless the results of such testing, inspections, surveys or monitoring demonstrate that, with respect to OFI's use, handling, storage, transportation, treatment, generation, release or disposal of Hazardous Materials in, on, under or about the Property, the Billboard, or any improvements thereon, OFI has violated its obligations contained in this Section. OFI shall promptly notify City in writing upon its actual knowledge of: (a) any release or discharge of any Hazardous Material by OFI or its authorized representatives; (b) any voluntary clean-up or removal action instituted or proposed by OFI, (c) any enforcement, clean-up, removal or other governmental or regulatory action instituted or threatened against OFI, or (d) any claim made or threatened by any person against OFI, the Billboard, the Property, or any improvements thereon relating to Hazardous Materials or Hazardous Materials Laws. OFI shall also supply to City as promptly as possible, and in any event within five (5) business days after OFI receives or sends same, copies of all claims, reports, complaints, notices, warnings or asserted violations relating in any way to the Billboard, the Property, any portion thereof, or any improvements thereon or OFI's use thereof and concerning Hazardous Materials or Hazardous Materials Laws. In the event OFI institutes a cleanup or removal action, OFI shall provide copies of all work plans and subsequent reports submitted to the governmental agency with jurisdiction to City in a timely manner.

22. **Unlawful Activities.** OFI may not use or permit the Property to be used in any way that violates this Agreement or any valid and applicable statute, ordinance, regulation, rule, or order of any federal, state, or local governmental entity (including City). OFI may not maintain or commit, or permit the maintenance or commission of, any public or private nuisance as defined by any law applicable to the Property. OFI hereby waives any rights to compensation it may have if a court finds that the Billboard constitutes a public or private nuisance under any valid and applicable federal, state, or local law and for that reason orders OFI to remove or modify the Billboard.

23. **Encumbrances.** OFI may not encumber the Property or any part of the Property or the Billboard or any part of the Billboard, for any purpose, without City's prior written consent, which City may withhold for any reason. OFI shall keep the Property and the Billboard free of all liens and other encumbrances other than those, if any, to which City consents.

24. **Construction and Operation of Billboard.** Subject to any required permits and approvals, OFI shall construct, operate, maintain and repair the Billboard on the Property in accordance with the provisions of this Agreement. Upon completion of the Billboard, OFI shall provide City with a complete set of as-built drawings.

25. **Permitting Costs.** OFI will bear the costs associated with obtaining the Caltrans Permits and costs related to all other permitting and entitlements which are required for the construction and operation of the Billboard, including obtaining any Project Approvals (as defined in Section 1.18), for the construction, operation, maintenance, and repair of the Billboard and the Property and any environmental review of the Property.

26. **Plans and Specifications.** At no cost to City, OFI shall prepare complete plans and specifications for the construction of the Billboard consistent with **Exhibit C** to this Agreement, working closely with City to develop plans and specifications that are mutually acceptable (the "Plans"). OFI shall submit the Plans to City for final approval, which City will not unreasonably withhold, condition or delay. The Billboard shall be designed to comply with all applicable state, county, and City codes and regulations.

27. **Caltrans Permits.** OFI is responsible for ensuring that the Billboard complies with all requirements of California's Outdoor Advertising Act and Regulations if Caltrans determines that the Property fall within the scope of such law. As soon as practicable after the Effective Date, OFI shall apply for the Caltrans Permits, or, if necessary, engage in discussions with Caltrans to negotiate a Billboard Relocation Agreement that is mutually agreeable to both OFI and Caltrans which will permit OFI to seek all Caltrans Permits required in connection with the construction and operation of the Billboard contemplated by this Agreement. OFI agrees that upon request by the City, OFI will provide updates and any reasonably requested documentation relating to the negotiations with Caltrans for the Caltrans Permits and any status on the issuance of the Caltrans Permits. During the Initial Term, OFI shall perform all obligations under the Caltrans Permits at no cost to City. OFI shall have twelve (12) months from the Effective Date to obtain the Caltrans Permits, which period shall be subject to the one (1) year tolling period provided in Sections 3 and 4 in the event of a third party lawsuit, initiative, or referendum. If OFI has not received the Caltrans Permits at the end of such twelve (12) month period in addition to any tolling period as provided in Sections 3 and 4, and provided that OFI has diligently pursued the Caltrans Permits, City must provide OFI an extension of an additional six (6) months to obtain the Caltrans Permits. If, following such additional six (6) month extension period, OFI is still unable to obtain the Caltrans Permits, either the City or OFI can agree to another extension of time or terminate this Agreement.

28. **Cooperation in Completing Project; Landscaping.** OFI and City acknowledge and agree that in order to provide for OFI's effective utilization of the Billboard, the Billboard must be visible without obstruction. Such effective utilization necessitates the removal of the trees depicted on **Exhibit D** (collectively, the "Trees"). City agrees to reasonably cooperate (at no cost to City) with OFI, including, without limitation, applying for certain permits in the name of the City, as necessary for the successful completion of the Project and fulfillment of Project requirements, including, without limitation, accomplishment of each and every mitigation measure, and all other requirements or conditions that may be imposed on the Project by other public agencies. OFI acknowledges and agrees that such requirements and conditions may include the planting of new landscaping and/or trees. OFI shall be solely responsible for paying all costs associated with this process.

29. **Construction.** OFI shall begin design process and permitting process for the Billboard as soon as practicable after the Effective Date and shall diligently pursue construction

to completion without unnecessary interruption so that the Billboard is Operational by the date established in Section 13.1(d). OFI will be excused, however, for any delays in beginning or completing construction that are caused by a Force Majeure Event, as defined in Section 33. OFI shall use reasonable diligence to avoid such delays and to resume work as promptly as possible after such a delay.

30. **Prevailing Wages.** The parties agree that any “construction, alteration, demolition, installation, or repair work” (“Improvement Work”) shall comply with applicable prevailing wage policies as set forth in California Labor Code section 1720 et seq., any applicable federal law and applicable regulations thereto (“Prevailing Wage Laws”). OFI shall defend, indemnify and hold harmless City and its officers, officials, employees, volunteers and agents from any claims arising out of or in any way connected to OFI’s obligations regarding compliance with Prevailing Wage Laws.

31. **Maintenance.** OFI shall be responsible for all the on-going repair, maintenance, installation, and operation costs of the Billboard, and related improvements on the Property at no cost to the City. OFI shall also be responsible for the prompt removal of any graffiti from the Billboard within forty-eight (48) hours of receiving notice of the graffiti.

32. **Damage or Destruction to the Billboard.** This Agreement will continue in full effect if the Billboard is substantially damaged or destroyed in whole or part by any cause whether or not covered by the fire-and-casualty insurance OFI maintains, subject to the following:

32.1 The Rent thereafter due under this Agreement will abate from the date of the casualty until the repair or replacement of the Billboard is completed.

32.2 The City and OFI will mutually agree upon the repair or replacement of the Billboard, which such repair or replacement will use any proceeds of insurance maintained by the City or otherwise at the expense of the City. In connection with any election to repair the casualty, OFI and the City will promptly apply for, and diligently pursue the issuance of, any permits or approvals needed to repair or replace the Billboard. Within thirty (30) days after obtaining the necessary permits and approvals, the party which will perform such repair or replacement will begin work to repair or replace the Billboard and diligently pursue the completion thereof.

32.3 In the event of any damage or destruction which is covered by insurance, the City will promptly make proof of loss and proceed promptly to collect, or cause to be collected, all valid claims which the City may have against insurers or others based upon any such damage or destruction. Except as otherwise provided above, amounts received on account of any losses pursuant to insurance policies shall be used and expended for the purpose of fully repairing or reconstructing the portions of the Billboard which has been destroyed or damaged.

32.4 Notwithstanding anything herein to the contrary, if (a) the cost to repair or replace the damage or destruction of the Billboard exceeds 50% of its fair-market value immediately before it is damaged or destroyed; and (b) the damage or destruction occurs during

the last five (5) years of the Initial Term, then the City may terminate this Agreement upon written notice to OFI without penalty.

33. **Force Majeure** As used in this Agreement “Force Majeure Events” and “Pandemic Events” have the following meaning:

33.1 “Force Majeure Events” mean, collectively: (1) governmental preemption or governmental shutdowns of business in connection with a national emergency, (2) work stoppages or other delays due to pandemics or other unforeseen circumstances, (3) conditions that prevent or delay construction and which are affected by war, pandemic, civil unrest or other international, national, state or municipal emergency or other cause, (4) act of God, (5) Pandemic Events (as hereinafter defined) or (6) any other cause, similar or dissimilar, beyond the reasonable control of either party; and

33.2 “Pandemic Events” shall mean (1) governmental shutdowns of business in Ventura County in connection with the occurrence of a pandemic or other public health emergency, or (2) the issuance of “shelter-in-place” orders affecting Ventura County by one or more governmental authorities due to the occurrence of a pandemic or other public health emergency.

34. **Utilities**. At no cost to City, OFI shall provide and pay for all utility connections, utility equipment, and utility service required to construct, operate, maintain, repair, improve, or reposition the Billboard throughout the Initial Term (provided that City will pay for all such costs and expenses in connection with the construction and operation of the City’s Telecommunication Facilities, if applicable). OFI shall coordinate with City and the applicable utility companies for utility tie-ins and electrical power sources that OFI may need to construct and operate the Billboard.

35. **Removal of Billboard**. OFI shall be responsible for the removal of the Billboard, and other improvements from the Property and restore the Property to its condition immediately prior to the date that City delivered control of the Property to OFI (reasonable wear and tear, damage or destruction by the acts of God beyond the control of OFI, and damage caused by parties other than OFI (and its employees and contractors) excepted), at the expiration of the Initial Term of this Agreement, unless the City waives OFI’s removal obligation in writing. In the event this Agreement is otherwise terminated or cancelled prior to the expiration of the Initial Term, OFI shall remove the Billboard and other improvements installed by OFI from the Property and restore the Property to its condition immediately prior to the date that City delivered control of the Property to OFI (reasonable wear and tear, damage or destruction by the acts of God beyond the control of OFI, and damage caused by parties other than OFI (and its employees and contractors) excepted), unless the City waives OFI’s removal obligation in writing. Notwithstanding the above, OFI shall not be required to remove those portions of the Billboard and other improvements made by OFI on the Property that are more than ten (10) feet below grade. OFI shall cause the removal as required under this Section within thirty (30) days from the end of the Initial Term or from the date of early termination, whichever the case may be. If OFI does not timely remove the Billboard and other improvements as required by this Section, City may, but shall not be required to, remove or cause the removal of the Billboard and other improvements on the Property at OFI’s expense. OFI shall reimburse City within thirty

(30) days of receipt of an itemized accounting of the cost for such removal and the restoration of the Property to its state immediately prior to the installation of the Billboard. City and OFI acknowledge and agree that OFI and its assigns shall be the exclusive owner and operator of the Billboard, and that all equipment comprising the Billboard shall remain the personal property of OFI and its assigns and shall not become fixtures of the Property. City shall have no right, title or interest in the Billboard or any component of the Billboard, notwithstanding the manner in which the Billboard is or may be physically attached, mounted or adhered to the Property.

36. **Taxes.** OFI shall pay without abatement, deduction, or offset any income taxes or possessory interest taxes levied on or assessed against the Billboard located on the Property, OFI's equipment, fixtures, and personal property located on or in the Property, which are directly attributable to this Agreement or OFI's use of the Property, whether belonging, owned, or chargeable against the City. OFI shall make all such payments directly to the charging authority prior to delinquency and before any fine, interest, or penalty becomes due or is imposed for OFI's non-payment. Following prior request by City, OFI shall provide City with proof of payment of such tax.

37. **Compliance Review.**

37.1 **Periodic Review.** Pursuant to Government Code section 65865.1, the City Manager shall, not less than once in every twelve (12) months, review the Project and this Agreement to ascertain whether or not OFI is in full compliance with the terms of this Agreement (the "Periodic Review").

37.2 **Review Procedure.** During a Periodic Review, OFI shall provide information reasonably requested by the City Manager that the Project is being developed in good faith compliance with the terms of this Agreement. Upon completion of a Periodic Review, the City Manager shall submit a report to the City Council setting forth the City Manager's findings. If, as a result of a Periodic Review, the City Council finds and determines on the basis of substantial evidence that OFI has not complied in good faith with the terms or conditions of this Agreement, the City shall issue a written "Notice of Noncompliance" to OFI specifying the grounds therefore and all facts demonstrating such noncompliance. OFI's failure to cure the alleged non-compliance within ninety (90) days after receipt of the notice, or, if such noncompliance is not capable of being cured within ninety (90) days, OFI's failure to initiate all actions required to cure such noncompliance within ninety (90) days after receipt of the notice, shall constitute a default under this Agreement on the part of OFI and shall constitute grounds for the termination of this Agreement by the City as provided for below.

37.3 **Termination or Modification for Non-Compliance.** Pursuant to Government Code Section 65865.1, if the City Council finds and determines, on the basis of substantial evidence, that OFI has not complied in good faith with the terms or conditions of this Agreement, the City Council may modify or terminate this Agreement. Any action by the City with respect to the termination or modification of this Agreement shall comply with the notice and public hearing requirements of Government Code section 65865.1 in addition to any other notice required by law. Additionally, the City shall give OFI written notice of its intention to terminate or modify this Agreement and shall grant OFI a reasonable opportunity to be heard on the matter and to oppose such termination or modification by the City.

37.4 **Modification, Amendment or Cancellation by Mutual Consent.** Pursuant to Government Code section 65868, this Agreement may be amended or canceled, in whole or in part, by mutual written consent of the City and OFI or their successors in interest. Public notice of the parties' intention to amend or cancel any portion of this Agreement shall be given in the manner provided by Government Code section 65867. Any amendment to the Agreement shall be subject to the provisions of Government Code section 65867.5.

37.5 **Inurement and Assignment.** This Agreement shall inure to the benefit of and bind the successors and assigns of the City and OFI and may be assigned by either the City or OFI to any party or parties pursuant to the requirements of this Section. The specific rights and obligations of this Agreement shall be deemed covenants running with the land that concern and affect the Property. Prior to OFI's assignment of any rights, duties or obligations under this Agreement, OFI shall present such information to the City as will reasonably demonstrate to the City's satisfaction that the proposed assignee (the "**Assignee**") has the financial ability and experience to fulfill those specific rights, duties and obligations under the Agreement that the Assignee will assume. The City shall have the right to approve the proposed Assignee, provided that the City's approval may not be unreasonably withheld. Because this Agreement is a statutory Development Agreement, if City staff determine that they can recommend approval of the proposed Assignee, a public hearing before the Planning Commission and City Council will be necessary to approve the proposed amendment to this Agreement. If the City does not approve the Assignee, the City shall deliver notice to OFI of the reasons for the City's disapproval of the Assignee. Once such approved assignment or succession has occurred and the Assignee has agreed to accept the applicable obligations under this Agreement, OFI shall be released from its obligations under this Agreement assumed by the Assignee with respect to the Property, or portion thereof, so transferred. Notwithstanding anything herein to the contrary, OFI shall not be required to obtain the City's written consent prior to effecting a transfer of all or a portion of OFI's interests to OFI member agencies Foster Interstate, LLC and Outfront Media, LLC.

38. **Monetary Damages.** OFI and the City acknowledge that neither the City nor OFI would have entered into this Agreement if either were liable for monetary damages under or with respect to this Agreement or the application thereof. Both the City and OFI agree and recognize that, as a practical matter, it may not be possible to determine an amount of monetary damages which would adequately compensate OFI for its investment of time and financial resources in planning to arrive at the kind, location, intensity of use, and improvements for the Project, nor to calculate the consideration the City would require to enter into this Agreement to justify such exposure. Therefore, the City and OFI agree that neither shall be liable for monetary damages under or with respect to this Agreement or the application thereof and the City and OFI covenant not to sue for or claim any monetary damages for the breach of any provision of this Agreement. This foregoing waiver shall not be deemed to apply to any fees, payments, reimbursements or other monetary amounts specifically required to be paid by OFI to the City pursuant to this Agreement.

39. **Specific Performance.** OFI has invested significant time and resources and performed extensive planning and processing of the Project in agreeing to the terms of this Agreement and will be investing even more significant time and resources in implementing the Project in reliance upon the terms of this Agreement and it is not possible to determine the

amount of monetary damages that would adequately compensate OFI for such efforts. Damages would not be an adequate remedy if City fails to carry out its obligations under this Agreement, and that OFI shall have the right to seek and obtain specific performance as a remedy for any breach of this Agreement. The City's remedy to terminate or amend this Agreement in the event of OFI's uncured breach shall be sufficient in most circumstances.

40. **Administration of Agreement and Resolution of Disputes.** OFI shall at all times have the right to appeal to the City Council any decision or determination made by any employee, agent or other representative of the City concerning the Project or the interpretation and administration of this Agreement. All City Council decisions or determinations regarding the Project or the administration of this Agreement shall also be subject to judicial review pursuant to Code of Civil Procedure section 1094.5, provided that, pursuant to Code of Civil Procedure section 1094.6, any such action must be filed in a court of competent jurisdiction not later than ninety (90) days after the date on which the City Council's decision becomes final.

41. **Recordation of this Agreement.** Pursuant to Government Code section 65868.5, the City Clerk shall record a copy of this Agreement in the Official Records of Ventura County within ten (10) days after the mutual execution of this Agreement.

42. **Constructive Notice and Acceptance.** Every person or entity who now or hereafter owns or acquires any right, title or interest in or to any portion of the Property is, and shall be, conclusively deemed to have consented and agreed to every provision contained herein, whether or not any reference to this Agreement is contained in the instrument by which such person acquired an interest in the Property.

43. **No Third-Party Beneficiaries.** This Agreement is made and entered into for the sole protection and benefit of the City, OFI and their respective successors and assigns. No other person or entity shall have any right of action based upon any provision of this Agreement.

44. **Miscellaneous.**

44.1 **Notices.** All notices, requests, demands, and other communications required or permitted under this Agreement shall be in writing and shall be (as elected by the person giving such notice) (i) hand delivered by messenger or courier service, (ii) by overnight delivery (including Federal Express), or (iii) by United States mail (postage prepaid), registered or certified, return receipt requested, addressed to the addresses set forth below. Each notice shall be deemed delivered (1) on the date delivered if by personal delivery, (2) on the date of delivery by the overnight delivery service if by overnight delivery, or (3) seventy-two (72) hours after deposit in the United States mail (postage prepaid) if by registered or certified mail. By giving to the other parties at least fifteen (15) days' written notice, the parties to this Agreement and their respective successors and assigns shall have the right from time to time and at any time during the term of this Agreement to change their respective addresses and each shall have the right to specify as its address any other address.

If to City: City of Oxnard
300 West Third Street
Oxnard, California 93030
Attention: City Manager

with a copy to: City of Oxnard
214 South C Street
Oxnard, California 93030
Attention: Community Development Director
Tel. No.: (805) 385 7877
Fax No.: (805) 385 7854

with a copy to: City of Oxnard
300 West Third Street
Oxnard, California 93030
Attention: City Attorney

If to OFI: Outfront Foster Interstate, LLC
2300 Contra Costa Blvd., Suite 330
Pleasant Hill, CA 94523
Attn: John B. Foster, President
Fax: (510)-832-7080

with a copy to: Outfront Media LLC
405 Lexington Avenue, 17th Floor
New York, NY 10174
Attn: General Counsel

with a copy to: Miller Starr Regalia
1331 North California Boulevard, Fifth Floor
Walnut Creek, CA 94596
Attn: Anthony Leones
Tel: (925) 941-3261
Fax: (925) 933-4126
Email: tony.leones@msrlegal.com

with a copy to: Wendel Rosen LLP
1111 Broadway, 24th Floor
Oakland, CA 94607
Attn: Matt Dambrov
Tel: (510) 834-6600
Fax: (510) 834-1928
Email: mdambrov@wendel.com

44.2 Severability. If any part of this Agreement is declared invalid for any reason, such invalidity shall not affect the validity of the remainder of the Agreement. The other parts of this Agreement shall remain in effect as if this Agreement had been executed without the invalid part. The City and OFI intend and desire that the remaining parts of this Agreement continue to be effective without any part or parts that have been declared invalid.

44.3 Entire Agreement; Conflicts. This Agreement represents the entire agreement between the City and OFI with respect to the subject matter hereof and supersedes all prior agreements and understandings, whether oral or written, between the City and OFI with respect to the matters contained in this Agreement. Should any or all of the provisions of this Agreement be found to be in conflict with any other provision or provisions found in the Applicable Rules or the Subsequent Applicable Rules, then the provisions of this Agreement shall govern and prevail.

44.4 Further Assurances. The City and OFI agree to perform, from time to time, such further acts and to execute and deliver such further instruments reasonably necessary to effect the intents and purposes of this Agreement, provided that the intended obligations of the City and OFI are not thereby modified.

44.5 Negation of Agency. The City and OFI acknowledge that, in entering into and performing under this Agreement, each is acting as an independent entity and not as an agent of the other in any respect. Nothing contained herein or in any document executed in connection herewith shall be construed as making the City and OFI joint venturers, partners or employer/employee.

44.6 Attorneys' Fees. In the event of any claim, dispute or controversy arising out of or relating to this Agreement, including an action for declaratory relief, the prevailing party in such action or proceeding shall be entitled to recover its court costs and reasonable out of pocket expenses not limited to taxable costs, including, but not limited to telephone calls, photocopies, expert witness, travel, and reasonable attorneys' fees and costs to be fixed by the court. Such recovery shall include, but not limited to, court costs, out of pocket expenses and attorneys' fees on appeal, if any. The court shall determine who is the "prevailing party," whether or not the dispute or controversy proceeds to final judgment. If the City or OFI is reasonably required to incur such out of pocket expenses and attorneys' fees as a result of any claim arising out of or concerning this Agreement or any right or obligation derived hereunder, then the prevailing party shall be entitled to recover such reasonable out of pocket expenses and attorneys' fees whether or not an action is filed.

44.7 Waiver. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought.

44.8 Estoppel Certificates. Within thirty (30) days following the receipt by City of a written request by OFI, the City shall execute and deliver to the requesting OFI a statement (an "estoppel certificate") certifying that (i) either this Agreement is unmodified and in full force and effect or there have been specified (date and nature) modifications to the Agreement, but it remains in full force and effect as modified; and (ii) either there are no known current uncured defaults under this Agreement or that the City alleges that specified (date and nature) defaults exist. The estoppel certificate shall also provide any other reasonable information requested. The failure to timely deliver a requested estoppel certificate shall constitute a conclusive presumption that this Agreement is in full force and effect without modification, except as may be represented by the requesting OFI, and that there are no uncured defaults in the performance of the requesting OFI, except as may be represented by the requesting OFI. The requesting OFI shall pay to City all reasonable administrative costs incurred by City in connection with the issuance of estoppel certificates under this Section prior to City's issuance of such certificates. Any such certificate may be and is intended to be relied upon by any person, including, but not limited to, the other Party, potential purchasers or lessees of all or any part of the Property, lenders or potential lenders.

44.9 Section Headings. The section headings contained in this Agreement are for convenience and identification only and shall not be deemed to limit or define the contents to which they relate.

44.10 Relationship of the Parties; Not Third-Party Beneficiaries. This Agreement does not create any relationship or association between City and OFI other than that of landlord and tenant, and it is expressly understood and agreed that City does not in any way nor for any purpose become a partner of OFI or a joint venturer with OFI in the conduct of OFI's business or otherwise; nor does this Agreement create between City and OFI the relationship of principal and agent. The parties do not intend to create any third-party beneficiaries to the Agreement.

44.11 Time of Essence. Time is of the essence of this Agreement, and all performances required hereunder shall be completed within the time periods specified. Any failure of performance shall be deemed as a material breach of this Agreement.

44.12 Counterparts. This Agreement and any modifications hereto may be executed in any number of counterparts with the same force and effect as if executed in the form of a single document.

45. Indemnification.

45.1 Definitions. For the purposes of this Section, the following definitions will apply:

(a) “Person” is to be interpreted broadly and includes OFI and OFI’s directors, officers, employees, contractors, and agents; and City and City’s elected officials, officers, employees, contractors, and agents.

(b) “Liabilities” means all liabilities, claims, demands, damages, and costs (including reasonable attorneys’ fees and litigation costs through final resolution on appeal) that arise directly or indirectly from OFI’s possession or use of the Property.

(c) “Occurrence” means (A) the death of, or injury to, any person; and (B) damage to, or destruction of, any real property, personal property (including intellectual property), or the environment (broadly interpreted to include the air, soil, soil vapor, surface water, groundwater, flora, and fauna on or about the Property).

45.2 General Indemnity. Except to the extent claims are caused by the negligence or willful misconduct of the City and its employees, agents and contractors, and not waived by OFI, OFI shall indemnify, protect, defend, and hold harmless City and its elected officials, officers, employees, volunteers, lenders, agents, and representatives and each of their successors and assigns from and against any and all third party claims, judgments, causes of action, damages, penalties, costs, liabilities, and expenses, including all reasonable out-of-pocket costs, attorneys’ fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon, arising at any time during or after the Initial Term as a result (directly or indirectly) of or in connection with (a) any OFI default under this Agreement (including in the performance or non-performance of any obligation on OFI’s part to be performed under the terms of this Agreement); (b) OFI’s performance of the design and construction of the Billboard; (c) OFI’s or OFI’s representatives or agents use of the Property, the Billboard, any portion thereof, or any improvements thereon, the conduct of OFI’s business or any activity, work or thing done, permitted or suffered by OFI or its representatives or agents in or about the Property or any portion thereof, or any improvements thereon, except that with regard to the presence of Hazardous Materials, the Property or any improvements thereon, OFI will not be responsible for conditions that existed prior to the date that City delivers exclusive control of the Property to OFI and, whether prior to the Effective Date or not, were not caused by OFI or its authorized representatives; and (d) any negligent or willful act, error or omission of OFI or its representatives or agents in or about the Billboard, any portion thereof, or any improvements thereon (collectively, “Indemnification”). OFI shall provide such Indemnification by and through counsel reasonably approved by City. Without limiting the foregoing, OFI’s obligation under this Section includes Liabilities arising from any of the following:

(a) Any Occurrence that is caused by, or related in any way to, a verbal or nonverbal display on the Billboard.

(b) OFI’s failure to perform any provision of this Agreement due to no fault of City, to comply with any requirement of law applicable to OFI, or to fulfill any requirement imposed by any governmental entity (including City when acting as a government) on OFI or on OFI’s use of the Property.

(c) Any claim that OFI’s policies with respect to the allocation of advertising time violate any person’s or persons’ First Amendment rights.

(d) Any Occurrence caused or allegedly caused by (i) any condition of the Property created by OFI or by any Person on the Property with OFI's permission; or (ii) some act or omission on the Property by OFI or by any Person on the Property with OFI's permission.

OFI agrees that its obligation under this Section includes the reasonable costs of attorney fees incurred by City's City Attorney's Office to monitor and consult with OFI regarding the defense of any such Liabilities, including providing direction with regard to strategy, preparation of pleadings, settlement discussions, and attendance at court hearings, mediations, or other litigation related appearances. City will use its best efforts to avoid duplicative attorney work or appearances in order to keep litigation costs to a reasonable minimum. OFI further acknowledges and agrees that settlement of any Liabilities requires the consent of City. City agrees that its consent will not be unreasonably withheld provided that OFI is financially able (based on demonstrated assets) to fulfill its obligation to indemnify City for the costs of any such settlement as required under this Agreement

45.3 Hazardous Materials. Except to the extent caused by City's negligence or willful misconduct, caused by a third party or with regard to the presence of Hazardous Materials on the Property as of the date City delivers exclusive control of the Property to OFI, OFI shall indemnify, defend and hold City harmless from any claims, causes of action, liabilities, losses, damages, injunctions, suits, fines, penalties, costs or expenses (including attorneys' fees and expenses and consultant fees and expenses) caused or alleged to have been caused by OFI's use, storage, handling, treatment, generation, discharge or release of Hazardous Materials in violation of OFI's obligations under this Agreement, whether such claims, causes of action or liabilities are first asserted during the Initial Term or thereafter, and including claims made against City with respect to bodily injury, death or property damage sustained by third parties caused or alleged to have been caused by OFI's use, storage, handling, treatment, generation, discharge or release of Hazardous Materials. For the purposes of clarification, the indemnity contained in this Section will be the sole indemnity OFI provides to the City with respect to Hazardous Materials and (b) OFI will not be responsible for nor indemnifies the City for any claims, causes of action, liabilities, losses, damages, injunctions, suits, fines, penalties, costs or expenses with respect to Hazardous Materials which do not directly result from OFI's use, storage, handling, treatment, generation, discharge or of Hazardous Materials in violation of OFI's obligations under this Agreement.

45.4 Survival. Each party's obligations under this Agreement will survive expiration or termination of this Agreement for a period of three (3) years following termination.

45.5 Reference of California Law. Unless expressly stated to the contrary, all references to statutes herein are to the California codes.

45.6 Interpretation of Agreement. The language in all parts of this Agreement shall in all cases be construed simply, as a whole and in accordance with its fair meaning and not strictly for or against any party. City and OFI acknowledge and agree that this Agreement has been prepared jointly by City and OFI and has been the subject of arm's length and careful negotiation over a considerable period of time, that each party has been given the opportunity to independently review this Agreement with legal counsel, and that each party has

the requisite experience and sophistication to understand, interpret, and agree to the particular language of the provisions hereof. Accordingly, in the event of an ambiguity in or dispute regarding the interpretation of this Agreement, this Agreement shall not be interpreted or construed against the party preparing it, and instead other rules of interpretation and construction shall be utilized.

45.7 Institution of Legal Actions. In addition to any other rights or remedies, either party may institute legal action to cure, correct or remedy any default, to recover damages for any default, or to obtain any other remedy consistent with the purpose of this Agreement. Such legal actions must be instituted in the Superior Court of the County of Ventura, State of California or in the United States District Court for the Central District of California.

45.8 No Relocation Benefits. It is agreed that nothing contained in this Agreement shall give OFI any right to occupy the Property at any time after the expiration of the term of this Agreement or its termination. OFI agrees that, upon the expiration of termination of this Agreement, OFI's use of the Property for the location of a Billboard or this Agreement shall not entitle OFI to any relocation benefits from the City pursuant to any federal, state or local law and waives any such claim against the City.

Signatures on Following Page

IN WITNESS WHEREOF, the City and OFI hereto have each executed this Agreement as of the date first written above.

CITY:

CITY OF OXNARD, a California municipal corporation

By: _____
Mayor

ATTEST:

Rose Chaparro, City Clerk

APPROVED AS TO FORM:

Stephen Fischer, City Attorney

OUTFRONT FOSTER INTERSTATE LLC

By Its Members:

FOSTER INTERSTATE LLC

By: _____

Print Name: John B. Foster

Title: Manager

OUTFRONT MEDIA, LLC

By: _____

Print Name: _____

Title: _____

EXHIBIT "A"

DESCRIPTION OF PROPERTY SUBJECT TO ENA

APN 132-003-301, 132-031-016 and 132-031-107 (RiverPark Boulevard near Vineyard Avenue)
in the City of Oxnard, County of Ventura.

EXHIBIT "B"

LEGAL DESCRIPTION OF PROPERTY

EXHIBIT "B"

DESCRIPTION

AN EASEMENT IN THE IN THE CITY OF OXNARD, COUNTY OF VENTURA, STATE OF CALIFORNIA BEING A PORTION OF DEED RECORDED AS INSTRUMENT NO. 20110329-00050783-0 OF OFFICIAL RECORDS IN THE OFFICE OF THE VENTURA COUNTY RECORDER. SAID EASEMENT ALSO BEING A PORTION OF LOT LINE ADJUSTMENT NO. 08-31-13 RECORDED MAY 29, 2009 AS INSTRUMENT NO. 20090529-00087845-0 OF OFFICIAL RECORDS OF SAID COUNTY RECORDER, DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST EASTERLY CORNER OF SAID LOT LINE ADJUSTMENT, ALSO BEING THE MOST EASTERLY CORNER OF LOT D OF TRACT NO. 5352-1, RECORDED IN BOOK 150, PAGES 76 THROUGH 92 OF MISCELLANEOUS RECORDS OF SAID COUNTY RECORDER; THENCE SOUTHWESTERLY ALONG THE SOUTHEASTERLY LINE OF SAID LOT LINE ADJUSTMENT AND THE SOUTHEASTERLY LINE OF SAID TRACT MAP NO 5352-1, A DISTANCE OF 70.73 FEET TO MOST SOUTHERLY CORNER OF SAID LOT D; THENCE NORTHWESTERLY ALONG THE SOUTHWESTERLY LINE OF SAID LOT D; NORTH 35°55'20" EAST, A DISTANCE OF 10.54 FEET TO THE **POINT OF BEGINNING**; THENCE, LEAVING THE SOUTHWESTERLY LINE OF SAID LOT D,

1. SOUTH 54°04'40" WEST, A DISTANCE OF 50.00 FEET, TO THE SOUTHWESTERLY LINE OF SAID DEED RECORDED AS INSTRUMENT NO. 20110329-00050783-0 OF OFFICIAL RECORDS; THENCE, ALONG SAID SOUTHWESTERLY LINE,
2. NORTH 35°55'20" WEST, A DISTANCE OF 62.85 FEET; THENCE, LEAVING SAID SOUTHWESTERLY LINE,
3. NORTH 54°04'40" EAST, A DISTANCE OF 50.00 FEET, TO THE SOUTHWESTERLY LINE OF SAID LOT D; THENCE, SOUTHEASTERLY ALONG THE SOUTHWESTERLY LINE OF SAID LOT D,
4. SOUTH 35°55'20" EAST, A DISTANCE OF 62.85 FEET, TO THE **POINT OF BEGINNING**.

TOGETHER WITH A NONEXCLUSIVE EASEMENT OVER PARCELS 1 AND 2 OF DEED RECORDED MARCH 29, 2011 AS INSTRUMENT NO. 20110329-00050783-0 OF OFFICIAL RECORDS, RECORDED IN THE OFFICE OF SAID COUNTY RECORDER.

CONTAINING 3,143 SQUARE FEET, MORE OR LESS.

ALL AS SHOWN ON PAGE 2 AND BY REFERENCE HEREIN MADE A PART HEREOF.

PREPARED BY:
CHRIS NELSON & ASSOCIATES, INC.
28118 AGOURA ROAD, SUITE 100
AGOURA HILLS, CA 91301
(818) 991-1040

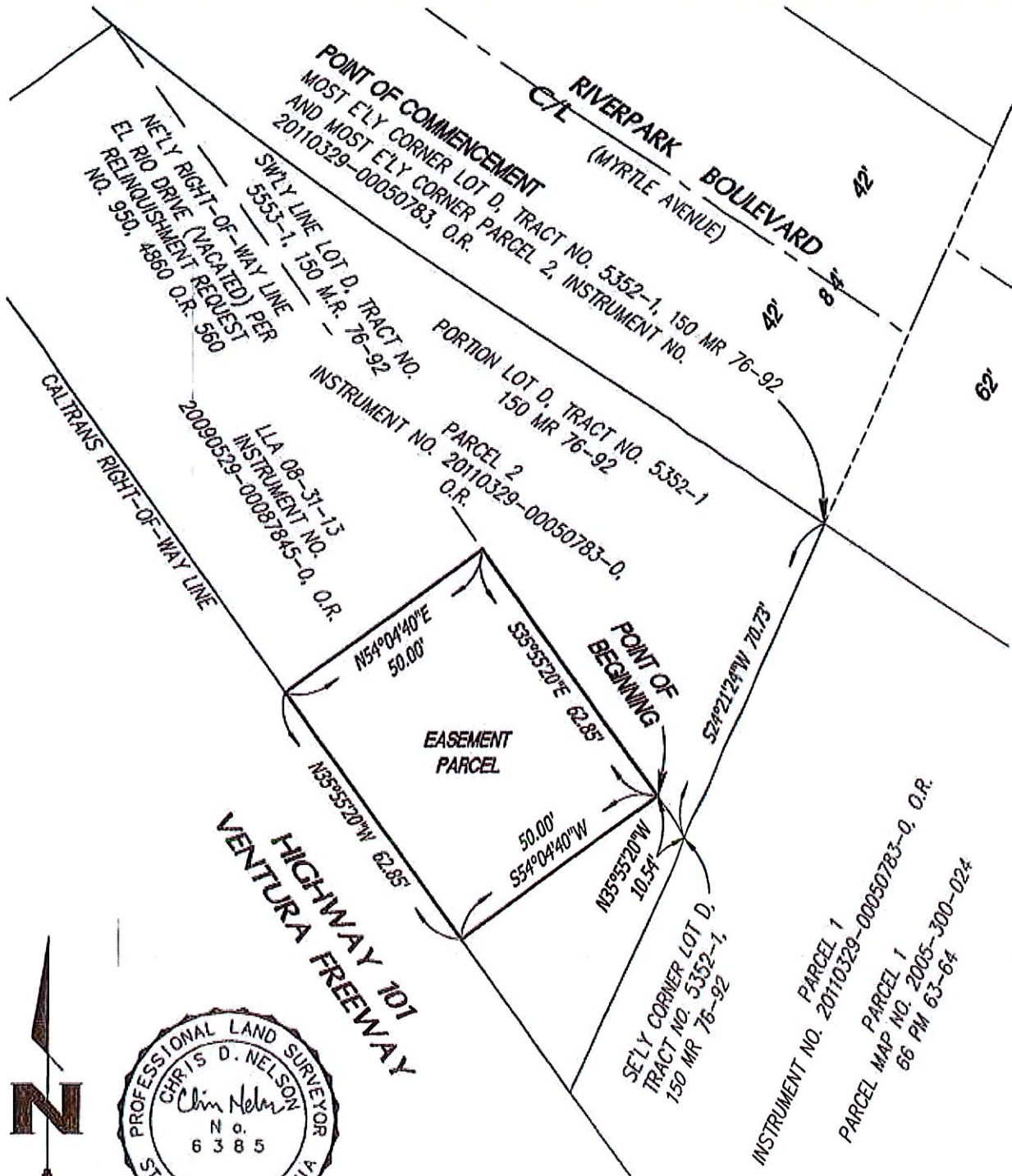
Chris Nelson

CHRIS NELSON, PLS 6385
DATED: DECEMBER 15, 2022



EASEMENT AREA:
3,143± SQ. FT

EXHIBIT 'B'



SCALE: 1" = 30'

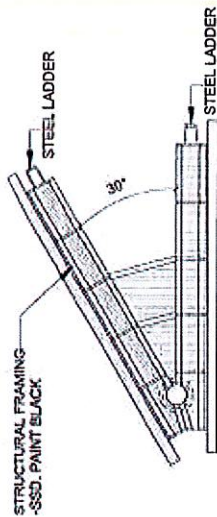
JOB NO.: 22-6505

DATED: 12/15/2022

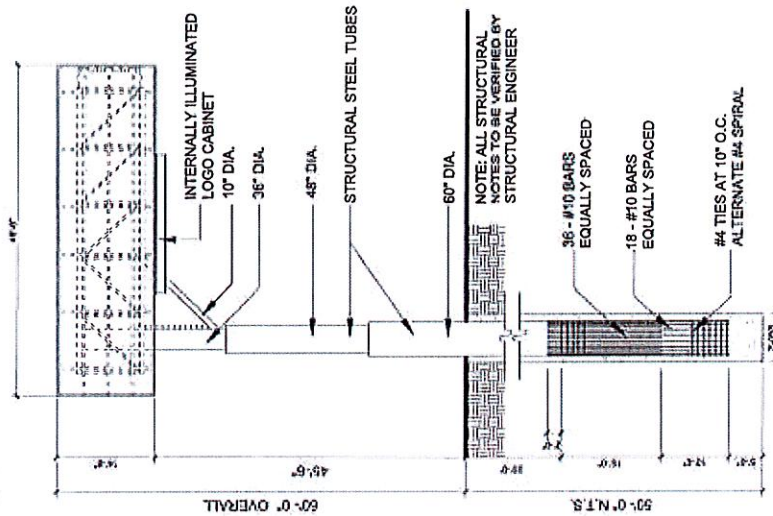
PAGE 2 OF 2

EXHIBIT "C"

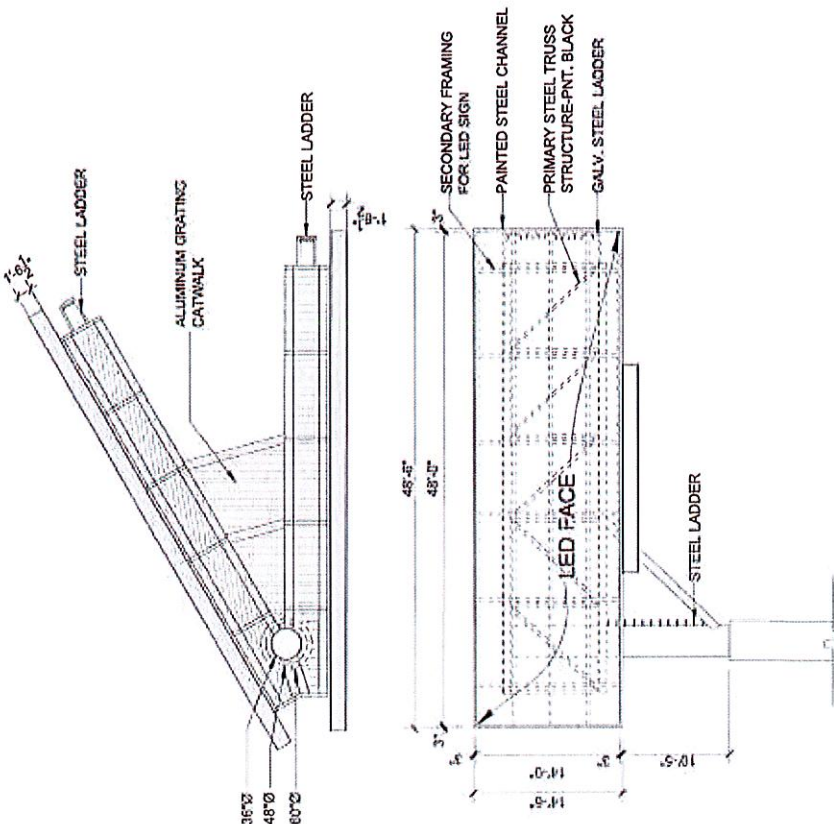
BILLBOARD



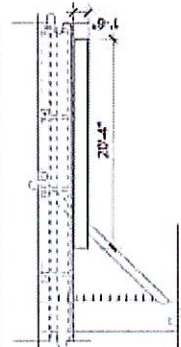
2 Plan View



1 Overall Elevation
(See A-3.0 For Color Scheme)



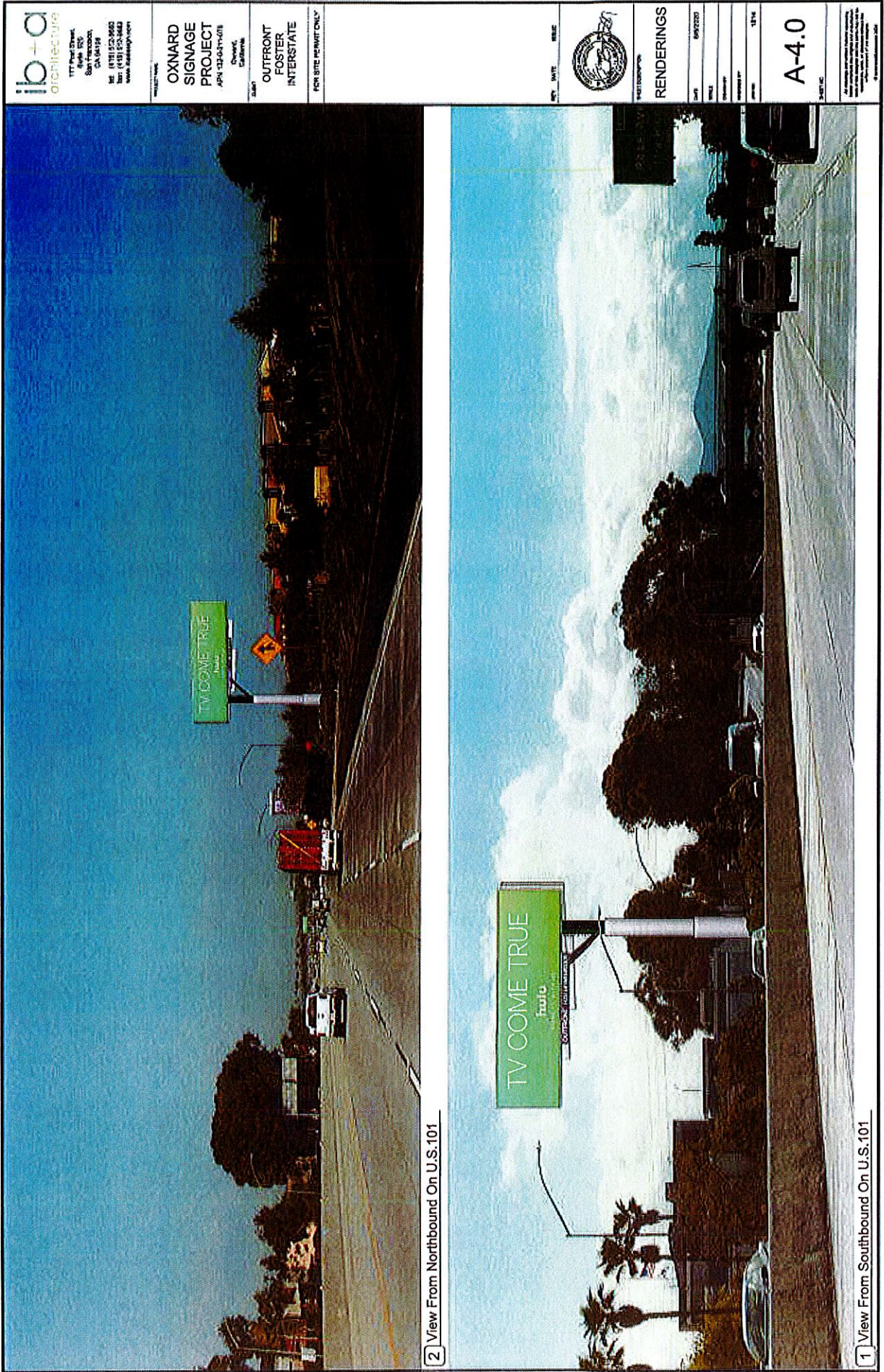
5 Face Elevation



3 Logo Cabinet Elevation



4 Logo Cabinet Plan



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CA 94108
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Fax: (415) 523-0843
www.ibaarchitecture.com

**OXNARD
SIGNAGE
PROJECT**
APN 120-047-0018
Oxnard,
California

**OUTFRONT
FOSTER
INTERSTATE**

FOR SITE VISIT ONLY

DATE: 08/22/20
PROJECT: 1214

SCALE: 1/8" = 1'-0"

A-4.0

RENDERINGS

DATE: 08/22/20
PROJECT: 1214

SCALE: 1/8" = 1'-0"

A-4.0

2 View From Northbound On U.S. 101

1 View From Southbound On U.S. 101

EXHIBIT "D"
TREE REMOVAL



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

DATE: April 13, 2023

TO: City Council

FROM: Maureen Tamuri, Interim Community Development Director, (805) 385-7882, maureen.tamuri@oxnard.org

SUBJECT: Project Name: RiverPark Boulevard Electronic Billboard Project; Located on an approximately 0.25-acre undeveloped site located between the U.S. 101 and RiverPark Boulevard approximately 850 feet north of Vineyard Avenue in the northern portion of the City of Oxnard (APN: 132-0-311-075) and along the Ventura Freeway (Highway 101) in the RiverPark Specific Plan area.

RECOMMENDATION

That the City Council:

1. Adopt Ordinance No. 3024 approving Planning and Zoning Permit No. 20-630-02 (Specific Plan Amendment No. 8 to the RiverPark Specific Plan) for text amendments to the RiverPark Specific Plan, subject to certain findings; and
2. Adopt Ordinance No. 3025 approving Planning and Zoning Permit No. 20-670-06 (Development Agreement No. A-8515), subject to certain findings.

BACKGROUND

Ordinance Nos. 3024 and 3025 were introduced to the City Council at its March 21, 2023 meeting. Following a public hearing, the Council introduced the ordinances for first reading by title only, waiving further reading. At the hearing, the City Council was presented with one recommendation containing two options. Following a public hearing, the City Council gave direction to move forward with Option 1, which allowed the development of the proposed Freeway Oriented Electronic Billboard and associated request, included the proposed Development and Lease Agreement as revised to include the following:

1. To include the right for the City to use 12.5% out of the total inventory of 16 spots (8 spots per face) or 2 total spots for the Billboard.
2. Revised the name of the "Oxnard Chamber of Commerce" to the "West Ventura County Business Alliance".

The applicants, Outfront Foster Interstate, LLC. ("Applicant" or "Developer") agreed to the amended language to the Development and Lease Agreement. The City Council then voted to adopt Mitigated Negative Declarations (MND 22-02), adopt a Resolution Approving Planning and Zoning Permit No. 20-500-07, and introduce the Ordinances, as amended, with a vote of 5-1 for first reading by title only, waiving further reading. If adopted by Council on April 13, 2023, the ordinance will take effect thirty days thereafter.

STRATEGIC PRIORITIES

This agenda item supports Economic Development strategy. The purpose of Economic Development strategy is to focus on the retention and expansion of Oxnard businesses by increasing the skills and employability of our local workforce, invite new business investments, and target site-based redevelopment opportunities.

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 Applicant shall pay to the City 30 percent of the Annual Net Revenue, with a minimum guarantee of \$150,000 annually. Revenue receipt is dependent on construction timing, but would be anticipated in Fiscal Year 2023-24 at the earliest.

COMMITTEE OUTCOME

This is a Public Hearing and was reviewed by the Commission, therefore this item did not originate in Committee.

Prepared by: Joe Pearson II, AICP, Planning & Environmental Services Manager

ATTACHMENTS

1. Riverpark Staff Report (City Council) 3.21.23 (Without Attachments)
2. Draft Ordinance Approving PZ Permit No. 20-630-02 (Specific Plan Amendment)
3. Draft Ordinance Approving PZ Permit No. 20-670-06 (Development Agreement)



CITY COUNCIL AGENDA REPORT

PUBLIC HEARINGS AGENDA ITEM NO. M.6

DATE: March 21, 2023

TO: City Council

FROM:

Maureen Tamuri, Interim Community Development Director, (805) 385-7882,
maureen.tamuri@oxnard.org

SUBJECT: Project Name: RiverPark Boulevard Electronic Billboard Project; Located on an approximately 0.25-acre undeveloped site located between the U.S. 101 and RiverPark Boulevard approximately 850 feet north of Vineyard Avenue in the northern portion of the City of Oxnard (APN: 132-0-311-075) and along the Ventura Freeway (Highway 101) in the RiverPark Specific Plan area. (30 minutes)

RECOMMENDATION

That the City Council:

1. Conduct a public hearing, and

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

Option 1 – Applicants’ Original Request/Staff’s Recommended Action – Allowing the development of a Freeway Adjacent Digital Display Billboard:

- a. Approve a Resolution Adopting a Mitigated Negative Declaration (MND) 22-02; and
- b. Introduce an Ordinance (by title only, waiving further reading) approving Planning and Zoning Permit No. 20-630-02 (Specific Plan Amendment No. 8 to the RiverPark Specific Plan) for 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. 20-670-06 (Development Agreement No. A-8515), subject to certain findings; and
- d. Adopt a Resolution Approving Planning and Zoning Permit No. 20-500-07 (Special Use Permit) and overturn the Planning Commission’s Denial, subject to certain conditions and findings.

Option 2 – Planning Commission Recommendation – Denying the development of a Freeway Adjacent Digital Display Billboard:

- a. Provide direction to City staff to return at a date certain meeting with the appropriate resolutions of denial for Planning and Zoning Permit Nos. 20-630-02 (Specific Plan Amendment No. 8 to the RiverPark Specific Plan),

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/8O39aFT6T0Y>

BACKGROUND

EXECUTIVE SUMMARY:

The Project includes a request for a Special Use Permit, Development Agreement, and Specific Plan Amendment to allow for the installation and operation of an electronic billboard on an approximately 0.25 acre undeveloped site located between the U.S. 101 and RiverPark Boulevard approximately 850 feet north of Vineyard Avenue in the northern portion of the City of Oxnard ("Project").

The Special Use Permit allows for the development of an electronic billboard that would include a digital display of advertisements of various businesses, activities, services or products. The top of the billboard would be approximately 60 feet in height above the ground, and the dimensions of the electronic billboard sign would be 14.5 feet in height and 48.5 feet in width. The electronic billboard would have a two-sided light-emitting diode (LED) digital display that would have dimensions of 14 feet in height and 48 feet in width. The Special Use Permit will also include minor landscape improvements within the adjacent Caltrans right of way. These will include the removal of the existing eucalyptus trees and the planting of alternatives, subject to Caltrans approval. The proposed Specific Plan Amendment would amend the RiverPark Specific Plan to allow for Freeway Adjacent Digital Display Billboards within the RiverPark Specific Plan.

The proposed Development Agreement (DA) allows for the use of City property for the purpose of a Freeway Adjacent Digital Display Billboard and among other public benefits requires payment to the City equal to thirty (30) percent of the Annual Net Revenue, with a minimum guarantee of \$150,000 per year for the thirty year (30) term of the DA. This payment equates to a range of approximately \$4.5M - \$8.4M for the subject sign.

Pursuant to Oxnard City Code, the Commission is the decision maker for Special Use Permit, however they are a recommendation body for Specific Plan Amendment and Development Agreements.

On February 2, 2023, the Planning Commission first took action on a proposed Freeway Adjacent Digital Billboard Ordinance (Ordinance). The Commission made numerous changes to the Ordinance, which made the subject SUP inconsistent with the Ordinance. At the February 2, 2023 Commission hearing, the Commission denied, and recommended Council denial, of the Subject permits.

As the final decision maker for the Specific Plan Amendment and the Development Agreement is the City Council, and to ensure that the City Council had the opportunity to review the whole of the project, all related entitlements are being presented to the City Council for their consideration. City Staff filed a request for review of the Planning Commissions denial of the Special Use Permit. While City Staff filed the request for review, the Applicant for the project is still Outfront Foster Interstate represented by Lars Skugstad (hereafter "Applicant" or "Developer").

Staff continues to recommend approval of the Project as originally proposed by the Applicant based upon:

1. City Council authorization, approval, and continued extensions of Exclusive Negotiation Agreements (ENAs) with both Outfront Foster Interstate since 2019, which identified potential Freeway Adjacent Digital Display Billboard locations;

With the increased separation from residential uses requested by the Planning Commission as part of the recommendation on the Ordinance, the subject Billboard location would not be allowed.

2. Compliance with State laws established by the California Department of Transportation (Caltrans), which is the agency responsible for regulating freeway safety;

3. Consistency with the general plan, zoning, and the environmental review, specifically the lighting impacts which does not allow an increase in illumination at any residentially zoned property by more than 0.5 footcandles, which is deemed

negligible. (This is further discussed in the “Key Projects Concerns” section of this report).

In summary, at this public hearing, the City Council has the option to move forward with: (1) the approval of the Project; or (2) provide direction to deny the Project and direct City staff to return at a date certain meeting with the appropriate resolutions of denial. Should the City Council choose to take another action other than those identified, the City Council can direct staff to return at a future public hearing with revised documents incorporating the direction provided.

Role of the Planning Commission and City Council

Pursuant to Oxnard City Code (OCC) Section 2-95, the Commission is an advisory body which provides land use recommendations to the City Council on items such as General Plan Amendments, Specific Plans, Ordinance Amendments, and Development Agreements. Therefore while the City Council is to consider the recommendations of the Commission, the Council may take an action which is not consistent with the recommendations of the Commission.

For the benefit of the City Council, this staff report provides: 1) background of the ENA discussions and Billboards; 2) a summary of the Commission hearings; 3) summaries of the Project and associated environmental review; and 5) a discussion of key concerns raised at Planning Commission.

BACKGROUND:

ENA Discussions and Extensions

On June 18, 2019, the City Council approved and authorized the Mayor to execute an Exclusive Negotiation Agreement (ENAs) with Outfront Foster Interstate, LLC for potential digital billboard sites. Under the terms of the ENA, Outfront Foster was given the exclusive right to negotiate with the City for an initial six-month period, and two additional six-month terms if the projects were being diligently pursued by Outfront Foster. The ENA is currently on the 7th Amendment which runs through June 6, 2023.

Existing Billboards and Freeway Oriented Signage

The City currently allows for billboards in the form of Off-site advertising signs throughout the City in General Commercial (C-2), Commercial Manufacturing (C-M), Limited Manufacturing (M-L), Light Manufacturing (M-1), and Heavy Manufacturing (M-2) zones pursuant to OCC 16-608. Under the proposed ordinance the Freeway Adjacent Digital Display Billboards, would be regulated separately from the Off-site advertising signs. The allowance of Freeway Adjacent Digital Display Billboards, is much more limited, as they are only allowed within 400 feet of U.S. Highway 101 and only on City owned property.

In addition to the existing Off-site advertising signs, the City has permitted two digital signs as allowed by the RiverPark Specific Plan (The Collection) and the Rose Santa Clara Specific Plan (Oxnard Auto Center). These signs are not defined as Off-site advertising signs and generally limited to the display of businesses located within the Collection or the Oxnard Auto Center. They were both permitted under their respective Specific Plans; therefore, no additional digital signage would be allowed without changes to the Specific Plans. Also, the Collection sign is approximately 110 feet away from the closest residential zoned property.

Freeway Adjacent Digital Display Billboards Ordinance (PZ 20-580-06)

Prior to consideration of the subject request, Council must take action on amendments to Article IX. Advertising Signs of the Oxnard City Code to permit Freeway Adjacent Digital Display Billboards. A separate staff report addresses the specifics of that Ordinance, as well as the Commission's recommended changes to that Ordinance. The Commission's recommended changes to the Ordinance was approved by 3 (in favor) - 2 (against), with two commissioners absent. Due to the proposed changes the Commission was required to review the RiverPark Blvd Electronic Billboard Project in accordance with the amendments. As the Project was inconsistent with the recommended amendments, the Commission had to deny Planning and Zoning Permit No. 20-500-07 (Special Use Permit) and recommend denial of the other associated project components.

PROJECT REQUESTS:

The Applicant's original request sought Planning Commission and City Council approval of the following four requests (Special Use Permit, Development Agreement, Specific Plan Amendment, Mitigated Negative Declaration (MND 22-02)):

1. Special Use Permit

The electronic billboard would include a digital display of advertisements of various businesses, activities, services or products. The proposed billboard would be supported by a pole that ranges in diameter from approximately 7 feet to 3 feet. The pole would extend approximately 45.5 feet above ground. The portion of the pole above ground would be painted primarily gray except for the upper 10.5 feet that would be painted black. The top of the billboard would be 60 feet in height above the ground and the dimensions of the electronic billboard sign would be 14.5 feet in height and 48.5 feet in width. The existing ground level is at approximately the same elevation as the travel lanes along U.S. 101 and RiverPark Boulevard. The electronic billboard would have a two-sided light-emitting diode (LED) digital display that would have dimensions of 14 feet in height and 48 feet in width.

Lighting levels on the digital sign will not exceed 0.3 foot candles above ambient light from a distance of 250 feet, as measured according to standards of the Outdoor Advertising Association of America. Brightness shall not exceed 300 nits (nits) or candela per square meter from sunset to sunrise. At all other times, brightness will not exceed 7,500 nits. Illumination shall be directed such that minimal light spill will occur on either side or the top or bottom of the sign face. A light sensor will be installed with the sign to measure ambient light levels and adjust light intensity and brightness based on ambient conditions. For reference, based on a study of existing lighting levels along Riverpark Boulevard, the average illumination is 3 foot-candles due to existing street lights and other nearby lighting fixtures. Adjacent to the existing street light the lighting level is approximately 5 foot-candles. The electronic sign will not display any moving, flashing, scrolling, fading, brightening or animated text or video. The signage will be controlled remotely and include remote maintenance software. LED lighting has a directional nature, focused toward the freeway. Louvers will be located above each row of lights to prevent light from projecting upward into the sky. As designed, the billboard complies with the staff recommended ordinance and the State laws established by the California Department of Transportation (Caltrans), which is the agency responsible for regulating freeway safety.

Eight existing eucalyptus located on the north side of U.S. 101 are proposed to be removed, which would require Caltrans approval because the trees are located within the U.S. 101 right-of-way. In addition, the Project includes removal of all dead wood located in the vicinity of the existing eucalyptus trees. The Project includes the placement of small multi-trunk accent trees with a maximum height of 15 feet along with low groundcover and shrubs.

2. Development Agreement

The proposed Development Agreement will allow for the use of City property for the purpose of a Freeway Adjacent Digital Display Billboard. The agreement also outlines the required public benefits to be provided by the future development, including fiscal benefits to the City, such as revenue sharing. As proposed, these include:

- Term - Thirty (30) years.
- Monetary Payment - The Applicant shall pay to the City 30 percent of the Annual Net Revenue, with a minimum guarantee of \$150,00 per year (approximately \$4.5M - \$8.4M over the term of the agreement).
- City Usage of the Billboard - To the extent that commercial advertising time on the Billboard is unsold and available, City shall have the right to use 12.5% out of the total inventory of 16 spots (8 spots per face) or 2 total spots for the Billboard.
- Emergency Notifications - Outfront shall make the Billboard available to Caltrans and the California Highway Patrol for purposes of “Amber Alerts” and for emergency or disaster notifications by local, state or federal agencies.
- Discount for Oxnard Auto Dealers and Oxnard Chamber of Commerce Members - Oxnard Auto Dealers and members of the Oxnard Chamber of Commerce shall receive a ten percent (10%) discount from the rates to advertise on the Billboard.
- Prohibitions - Any message that: is inherently false, misleading, or libelous (i.e., speech that is incapable of being presented in a manner that is not misleading); promotes the sale or use of firearms or tobacco products, whether directly or indirectly; promotes adult entertainment, products, conventions, events, or websites; contains “obscene matter,” as that term is defined in local, California or federal law.

3. Specific Plan Amendment

The proposed Project requires an amendment to the RiverPark Specific Plan to add Freeway Adjacent Digital Display Billboards within the Commercial Master Plan of the RiverPark Specific Plan. The specific revisions to the Specific Plan text identify minimum and maximum lot dimensions as well as size and spacing of the billboards. These revisions are consistent with the staff recommended Freeway Adjacent Digital Display Billboards Ordinance that is required to be

approved prior to approval of the proposed Project.

4. Environmental Determination

Pursuant to the California Environmental Quality Act (CEQA) Section 15060, the City of Oxnard as the Lead Agency, prepared a Mitigated Negative Declaration (MND) in accordance with CEQA and the CEQA Guidelines. The MND identified and discussed potential impacts, mitigation measures, monitoring requirements, and residual impacts for identified subject areas. The MND found that the implementation of the proposed Project would result in potentially significant impacts associated with biological resources, cultural resources, and noise on wildlife species. Mitigation measures have been required to reduce each potentially significant impact to less than significant. The mitigation measures that have been required within the MND would reduce potential significant impacts. These measures include (BIO-1) conducting a pre-construction survey for active bird nests, and (CUL-1 and CUL-2) monitoring and collecting, if necessary, any discovered archaeological and paleontological resources. After the implementation of the required mitigation measures, the potential significant impacts would be reduced to less than significant. No remaining significant impacts would occur. With respect to Aesthetics, although less than significant lighting impacts would occur, the MND includes mitigation measures that are recommended to further reduce impacts. These measures include: (AES-1 and AES-2) allowing for remote shut off in the event of malfunction and conducting illumination level verification tests.

The MND was available for public review from June 30, 2022, and ended on July 29, 2022. The City of Oxnard received four comment letters on the Draft MND. The comment letters and responses to each comment have been prepared and included in the Final IS/MND. Comments provided will be considered by the decision-making body in accordance with CEQA Guidelines, Section 15074(b).

With the inclusion of the mitigations for the areas noted above, the Project will not have a significant effect on the environment. Therefore, a Mitigated Negative Declaration (MND) was prepared with mitigation measures and a monitoring program in accordance with the provisions of CEQA.

KEY PROJECT CONCERN

Lighting and Visual Impacts on Residential Properties

Concerns were raised by Commissioners and members of the public regarding lighting impacts on residential properties. Specifically, comments were made about impacts to the residential developments to the north of the Project site and within the County of Ventura's El Rio neighborhood. The proposed billboard is approximately 130 feet south of the adjacent residential areas and 1,700 feet from the closest residentially zoned property within the El Rio community. As it relates to the County of Ventura's El Rio neighborhood, the project is not only 1,700 feet away from the residential areas, it is separated by a variety of Commercial and Office developments, which contain multiple two to four story buildings, as well as the freeway overcrossing. Given the relatively flat topography and intervening developments, the view of the proposed Billboard would be very limited, if visible at all. This is indicated by the inability to see the existing trees on the project site or the existing Esplanade sign, which though further from the El Rio Neighborhood is approximately 15 feet taller than the proposed billboard.

Also, while the billboard would be visible from residential areas in the City, City Staff and the City's CEQA consultant analyzed lighting impact on any residential properties, which would include any residentially zoned property both in the City of Oxnard and the County of Ventura. The MND found that, subject to the proposed Ordinance and required mitigation measures, there would not be a significant lighting impact based on the recommendations from the International Commission on Illuminance. Pursuant to the proposed Ordinance and Mitigation Measures, the maximum allowable increase in illumination at any residentially zoned property would be 0.5 footcandles. A site specific lighting study was prepared for the Project to analyze the Project's impacts on adjacent residential. While unlikely, the study assumes the worst case scenario of an all white sign to determine the greatest lighting impact. As these signs are oriented towards the freeway and include directionally oriented louvers to direct the lighting, the lighting projected toward any residential properties would be limited. Per the lighting study, the maximum illumination in the direction of the nearest residential zoned property is 0.2 footcandles at approximately 100 feet. This is significantly below the City adopted lighting requirements, which require projects be illuminated to a level of 1-7 footcandles throughout a project. Therefore, any additional lighting generated by the billboard would be negligible.

As it relates to visual impacts, the proposed billboard is within the U.S. Highway 101 corridor, which is generally characterized by urban or high density development, as well as other similar large scale signage such as the existing auto

center, collection, and esplanade signs. In addition to these signs there are numerous larger illuminated freeway signs, including electronic ones, along the corridor. The proposed billboard would be consistent with the overall nature of the corridor. Lastly, the proposed 100 foot setback is consistent with the City previous approval of the Collection electronic sign which is approximately 110 feet away from residentially zoned property.

STRATEGIC PRIORITIES

This agenda item supports Economic Development strategy. The purpose of Economic Development strategy is to focus on the retention and expansion of Oxnard businesses by increasing the skills and employability of our local workforce, invite new business investments, and target site-based redevelopment opportunities.

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

If option 1 is selected, the Applicant shall pay to the City 30 percent of the Annual Net Revenue, with a minimum guarantee of \$150,000 annually. Revenue receipt is dependent on construction timing, but would be anticipated in Fiscal Year 2023-24 at the earliest.

COMMITTEE OUTCOME

This is a Public Hearing and was reviewed by the Commission, therefore this item did not originate in Committee.

During the Commission's public hearing on January 19, 2023, Commissioners asked a series of questions as a result of staff's and the Applicant team's presentations. One public comment was received prior to the meeting and one verbal comment was provided during the public comment period on the Project. The questions and comments were generally in regards to the impacts on views and lighting. Following Commission deliberation, a motion of Intent to Deny the Project as they could not make all of the Findings required to support the Project. The January 19, 2023 Planning Commission meeting can be viewed online at the following link: <https://www.youtube.com/watch?v=DIS7Q-hYfgg>.

On February 2, 2023, all six members of the Planning Commission were present. The Commissioners who were not present on January 19, 2023 confirmed they reviewed the staff materials and watched the video of the Commission's January 19 meeting. One of the Commissioners who was previously present on January 19th, was absent on February 2nd. On February 2, 2023, the Commission voted 6-0 (with one commissioner absent), to adopt a resolution denying the Special Use Permit and recommending denial of the Specific Plan Amendment and Development Agreement to the City Council. While as noted above the Commission was required to deny the project based upon the recommended changes to the ordinance, the Commission did raise concern about the Project's proximity to the residential area, due to the potential lighting and visual impacts.

Prepared by: Joe Pearson II, AICP, Planning & Environmental Services Manager

ATTACHMENTS

1. Planning Commission Staff Materials dated 1_19_2023 and 2_2_2023
2. Final IS-MND 22-02
3. Draft City Council Resolution Adopting Mitigated Negative Declaration (MND) 22-02
4. Draft Ordinance Approving PZ Permit No. 20-630-02 (Specific Plan Amendment)
5. Draft Ordinance Approving PZ Permit No. 20-670-06 (Development Agreement)
6. Draft Resolution Approving the Appeal and overturning the Planning Commission's Denial of Planning and Zoning Permit No. 20-500-07
7. Riverpark Boulevard Electronic Billboard Project CC Presentation



CITY COUNCIL AGENDA REPORT

PUBLIC HEARINGS AGENDA ITEM NO. K.1

DATE: May 2, 2023

TO: City Council

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

SUBJECT: Public Hearing on Proposed Water Rate Increases and Introduction of an Ordinance Establishing New Water Rates, Fees and Charges. (120 minutes)

RECOMMENDATION

That City Council:

1. Hold a public hearing to receive public testimony and consider all protests concerning the adoption of an ordinance establishing water system user rates, fees and charges; and
2. Find that the California Environmental Quality Act (CEQA) does not apply to the ordinance that modifies the City's water rates, according to Public Resource Code sections 21080(b)(8) and 21083 in conjunction with the exemption listed in 14 California Code of Regulations section 15273; and
3. Approve the introduction and first reading by title only and waive any further reading of the ordinance establishing rates, fees and charges for the use of and services relating to the City's water services.

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

BACKGROUND

The City of Oxnard's Water Division serves residential, commercial, industrial, institutional and agricultural customers. As the largest city in Ventura County, the City's water utility serves potable water to more than 43,000 service connections. Approximately 85% of those services are single and multi-family residential.

The Water Division is responsible for operating and maintaining water facilities for production, treatment, blending, along with a distribution system with customer meters to deliver potable water across the City. Approximately 30-40% of the water supply is imported water purchased from the Calleguas Municipal Water District (CMWD), which they receive from the Metropolitan Water District of Southern California.

Approximately 30-40% of the water supply is regional groundwater purchased from the United Water Conservation District (UWCD). The remaining water, 20-30% of the water supply, is local groundwater drawn from the City's wells. The City has groundwater rights through the Fox Canyon Groundwater Management Agency. A portion of the groundwater is treated by reverse osmosis, blended and disinfected before entering the City distribution system. Lastly, the City has an Advanced Water Purification Facility (AWPF) that produces recycled water. The recycled water is currently sold to agricultural and industrial customers while the construction of the infrastructure, testing, and necessary regulatory approval is completed for using the recycled water to supplement the City's water supply.

The City's water system includes: ten groundwater wells, five connections from the United Water Conservation District, five connections from the Calleguas Municipal Water District, one reverse osmosis treatment plant, six blending stations, more than 500 miles of transmission and distribution pipelines, approximately 43,000 meters and appurtenances, and a network of remote pressure monitoring stations.

As a separate Enterprise Fund, the Water Utility relies mainly on revenues paid through customer water and recycled water rates to fund daily operations and maintenance, repairs, capital improvements to renew and replace aging infrastructure, cover debt service payments, and appropriate reserves. The Oxnard community owns its water system and its financial health is an important responsibility shared between our customers, community leaders, and staff. Providing a safe and reliable water supply for public health and safety is the utmost priority.

In July of 2017, the City's Public Works Department completed its last rate study. The results of the rate study indicated that the City needed to increase water rates, which are implemented by ordinance. On September 1, 2017, the City raised its water rates 14% and had a pass-through adjustment that took effect on January 1, 2018. As a result of the removal of the Infrastructure Use Fee in the water rates, the City reduced water rates by 3.4% on September 1, 2021.

In August 2022, the City authorized Raftelis to perform a water cost of service analysis and rate study to develop the cost of service-based water rates. Raftelis is recognized as a leading rate consultant in California and works with utilities to design water rates to achieve financial balance and maintain financial sustainability. The water rates report was taken to the City Council on April 4, 2023 and a copy of that report is available on the City's website at <https://www.oxnard.org/city-department-public-works-water-oxnard-water-costs/>.

DISCUSSION

Proposed Rate Change - Overview

The City's previous water cost of service analysis was last completed in 2017. Costs for goods and services have increased since that year and continue to do so while the water utility rates have remained unchanged. This has led to a reduction in revenue recovery used for infrastructure improvements while also negatively impacting the water utilities' Debt Coverage Ratio, which affects the ability to secure loans for high capital expenditures at low-interest rates. To provide revenue that will meet the Debt Coverage Ratio, sustain critical operations and maintenance, and fund capital expenditures, an increase in water rates is recommended.

In August 2022, Raftelis began work on the cost of service rate study to develop a financial plan for the City's water utility that includes a five-year rate model. The results of Raftelis's analysis showed the funding deficit that will be created if new rates are not implemented. With the increasing costs that have occurred since 2017, a rate adjustment is required to ensure full cost recovery of projected annual operating expenses, capital costs, and other factors including water demands.

Updating the water rates to keep up with the rising costs of providing safe and high-quality drinking water is a key component of maintaining the financial viability of the water funds, including maintaining healthy fund balances/reserves for emergencies and applicable bond covenants, and debt coverage ratios for bond covenants, and strong credit ratings.

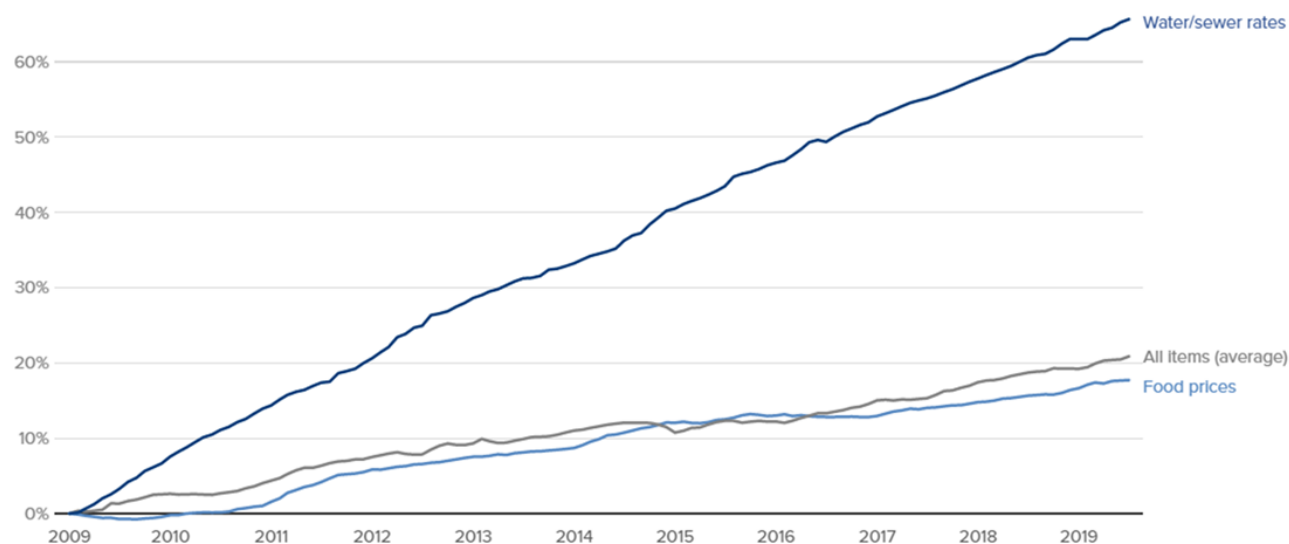
Financial Challenges

It is standard practice and good fiscal stewardship to review utility rates on a cyclical basis, usually every five years. The last time the City implemented a rate increase was five years ago in the fiscal year 2017-2018. Rates were increased by 14 % followed by a 1.9% pass-through. Since then, the COVID pandemic hit and created worldwide shortages of goods and services. These shortages have affected the City's utilities by increasing costs for materials, equipment and chemicals as well as supply chain issues.

Of significant importance is that the cost to operate and maintain a water system is not immune to inflation. In fact, the Bureau of Labor Statistics provides some insight into the extraordinary influence of disproportionate inflation of water rates since 2009. The graph below depicts the wide spread between the Consumer Price Index (CPI) between water and wastewater (sewer) rates and other areas like the price of food. Also, Table 1 below provides a cost comparison of products from the last time there was a water rate cost of service analysis (2017) to calendar year 2022. As shown, there are significant increases in the cost of products and materials, some of which have a direct impact on the cost to operate and maintain the City's water system.

Graph 1. Consumer Price Index Comparison

What Americans pay for water and sewer service has increased much faster than inflation or the price of food.



Source: Bureau of Labor Statistics—Consumer Price Index

Table 1. Sample Product Price Comparison from 2017 to 2022

Product Item	2017 Average Cost	2022 Average Cost	Increase
Gallon of gasoline	\$2.35	\$3.36	43 %
Gallon of milk	\$3.31	\$4.21	27 %
Dozen eggs	\$1.60	\$4.25	165 %
Ford F-150 Truck (base trim)	\$27,600	\$33,695	22 %
Electricity (per kWh)	\$0.120	\$0.146	22 %
Natural Gas (per therm)	\$1.00	1.66	66 %
Acre Foot of Imported Water (variable rate)	\$1,300	\$1,561	20%
Acre Foot of Groundwater from United (variable rate)	\$522.50	\$560.16	7%

A primary factor that has influenced the significant difference in Water rates versus other products/areas shown in Graph 1 above is the need for expensive infrastructure replacements. The majority of water facilities are very old and in need of repair and/or replacement. If these projects are not funded and conducted, the infrastructure will fail more frequently creating water losses, outages in service and adverse discharges of water into the environment.

Another significant challenge that Oxnard faces, like many other cities in California, is the effect from the extended drought. In recent years, the State of California has experienced intense periods of drought, resulting in mandatory water restrictions. Due to the recent drought, in April 2022, the Metropolitan Water District (MWD) of Southern California (regional State Water Project wholesaler) enacted its Water Shortage Emergency Condition and Emergency Water Conservation Program to preserve supplies. Metropolitan's emergency order to reduce consumption required the City to choose one of two paths to be in compliance in order to continue receiving water supplies from the State Water

Project. The City chose the path that restricts outdoor watering to once a week.

The extended drought has affected both California's Surface water and Groundwater supplies. As a result of these limited water supplies, the City may have to implement drought rates to be able to meet mandated water restrictions and related monetary increases (i.e. penalty rates from MWD) to meet the level of restriction at some point in the future. If we didn't receive the rain in 2023, we would have very strict conservation mandates now.

The drought challenge facing the City of Oxnard's water utility is the continual reduction of available water supplies. The City must prepare for volatile drought cycles and the need to conserve water supplies. To ensure financial stability, the City will need to consistently analyze water rates to balance revenues and expenses for better overall resource management and financial planning. As such, staff included a drought rate structure as part of the rate analysis. While the recent rain and snow events in California are a welcomed relief from the drought, these events provide only a partial adjustment from the long-term drought impacts seen by California. In addition, the local supplies of imported water and groundwater within Ventura County have proven to be less reliable than in previous years and decades. As such, a position of caution and continuation of a conversation message is recommended by staff.

Operational and Functional Costs

Purchased water costs constitute between 40-50% of the entire water utility budget. Other significant operating expenditures include electricity to produce, treat and distribute water, certified staff to operate, maintain, and repair the water utility system (including professional services), chemicals, supplies and equipment, information and monitoring systems, water quality testing, and other costs associated with utility administration and finance. Below are the main groups of operational and functional costs:

1. Purchase costs of various water supplies
2. Important operation and maintenance expenses
3. Capital Improvement Program (CIP) projects and costs
4. Debt service payments on bonds issued for system improvements
5. Water monitoring, testing, and compliance
6. Operating reserves

Aging infrastructure, rising costs of water acquisition, inflation on operating supply costs, supply chain restrictions, availability of certified technical staff, tightening local groundwater and purchased surface water supplies, and increasing regulations are some of the biggest challenges facing the water division today.

Operational Efficiency Efforts

A responsibility that staff is keenly aware of is being stewards of our customers' funds. The City has made and will continue to make investments in the water utility system to ensure the delivery of safe and reliable drinking water supply for generations to come at the lowest possible cost. In order to ensure future success, the City must be prepared to continue investing in the water system to maintain reliability, meet State and Federal regulatory standards, and obtain the necessary infrastructure and permitting for use of our recycled water. All of this is considered with an eye toward addressing the water supply availability challenges from climate change, reduced imported surface water and local groundwater. Some of the efforts conducted to keep costs down include:

- a. Conduct annual Water Loss audits
- b. Apply for Grants to reduce high capital costs
- c. Review Budget vs. Expenses on a quarterly basis
- d. Closely monitor water allocations to avoid incurring expensive penalties
- e. Use lowest qualified bid to obtain the lowest cost for materials and services
- f. Replace old inaccurate meters to ensure accurate water measurements
- g. Work with SCE for utilizing the lowest available electricity rates

Additionally, a major focus of staff is to ensure our water acquisition costs are the lowest possible. This includes investing in and maintaining a groundwater production system. The ability to use the lowest-cost water to its fullest extent is paramount in keeping rates as low as possible. In Fiscal Year (FY) 2021-22, the City's average cost of acquiring groundwater per acre-foot (combined from City wells and United) was \$592 (excludes City operating costs). The average cost (both variable and fixed components) to acquire imported water from Calleguas in FY 2021-22 was \$1,583/acre-foot.

As you can see, the difference is roughly \$991 per acre-foot. The total water consumption for Oxnard customers in FY 2021-22 was 26,102 acre-feet. Of that amount, 15,382 acre-feet was from groundwater. As such, on average, the acquisition of groundwater versus the acquisition of imported water can save approximately \$15.2 million (\$991 x 15,382) per fiscal year.

Rate Study Goals

A Rate Study is defined as a financial planning process to review the viability of existing rates that considers many factors, such as conservation, affordability, or simplicity. A Rate Study establishes rates that promote and sustain a financially viable utility. As such, to provide guidance, staff in conjunction with our consultant (Raftelis), used goals that are universal to the development of water rates. These goals are important to consider when identifying rate-influencing items with variable options, such as a reserve fund balance target or CIP projects.

As part of the Input and Considerations section below, the six goals listed below were considered in developing the recommendations:

1. Cover Operations and Maintenance-(G1)
2. Cover Infrastructure Investment-(G2)
3. Legally Compliant-(G3)
4. Promote Financial Viability-(G4)
5. Community Values-(G5)
6. Provide Fairness and Equity-(G6)

Input and Considerations

The following factors listed below are key components of developing the Rate Study and influence the actual rates. The summary of these factors along with the recommendations, justification and associated goals are listed below:

Table 2. Factors, Recommendations, Justification and Associated Goals

Factor	Staff Recommendation	Justification	Goal(s)
1. Rate Study Period	5-year period	Industry standard; long range planning; fairness of rates; ensures planned operations and mitigates deferred maintenance	G6
2. Pass-Through Charge	Include a pass-through for purchased water as allowed by California Government Code 53736	Avoids over or under estimating factors outside the City's control (e.g. cost of Calleguas water)	G4, G5, G6
3. Drought Rate	Include drought rates in Prop 218 proceedings	Ensure financial stability during emergencies	G1,G4, G5,G6
4. Capital Improvement Program (CIP)	Medium-low	Allows for CIP projects at a rate within existing resources; ensures long-term water operations and access to groundwater	G2, G4
5. Reserve Fund Balance Target	Endeavor to maintain 25% (per Resolution 15595)	Consistent with City Council Resolution; provides funding source during emergencies	G1, G4, G5
6. Debt Coverage Ratio	Maintain a minimum ratio of 1.10; Bond Covenant Requirement	Avoids negative impact to bond rating and effects on interest rates	G4, G5
7. Water Delivery Costs	Blended	Consistent with water operations from multiple water sources	G3

Water Rate History

The following table provides the City of Oxnard's cumulative water rate adjustments and water pass-through adjustments for the previous ten fiscal years:

Table 3. Water Rate Adjustments FY 2012-13 Through FY 2021-22

Fiscal Year	FY 12/13	FY 13/14	FY 14/15	FY 15/16	FY 16/17	FY 17/18	FY 18/19	FY 19/20	FY 20/21	FY 21/22
Approved water rate adjustment	4.4%	0%	0%	0%	0%	14.0%	0%	0%	0%	-3.4%*
Water pass-through adjustment	1.4%	2.3%	0%	0%	7.0%	1.9%	0%	0%	0%	0%

***Reduction due to removal of Infrastructure-Use Fees (IUF)**

The City implemented a rate increase five years ago in fiscal year 2017-2018. Rates were increased by 14 % in 2017 followed by a 1.9% pass-through increase in January 2018. In September 2021, the City reduced its water rates by 3.4% due to the removal of the Infrastructure Use Fees (IUF).

Recommendation for Water Rate Increases

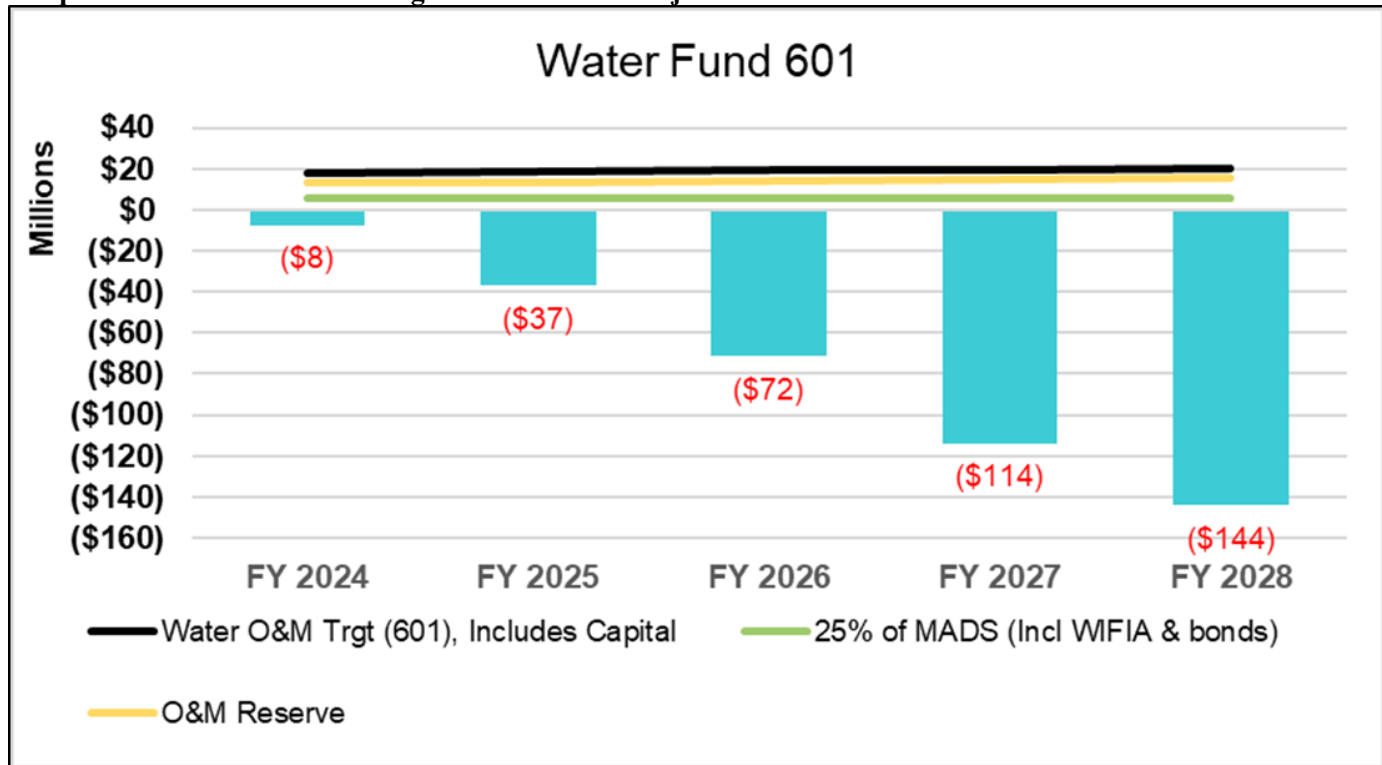
The City's primary financial goal for its utility enterprises is to ensure that revenues from rates and fees are adequate to fund daily operations and maintenance, capital improvement, debt service, and reserves. The funds generated by water utility rates are used to provide safe drinking water for City residents and businesses 24/7/365. This money funds operations, maintenance, repairs, debt payments, reserve levels, infrastructure costs, and capital improvement projects. Additionally, to maintain adequate water supply, services and reliability, the City must comply with strict environmental and water quality regulations plus other unfunded State mandates that increase the water utility's operating costs.

Consequences of Not Raising Rates

Without an increase in rates, the water fund will not be able to meet bond coverage requirements and go into technical default. This situation would result in a credit downgrade and an increased cost for funding required maintenance projects. Without rate increases, the Water Enterprise will eventually operate at a loss and begin running in a deficit. This means that the City would not be able to replace failed water meters in a timely manner, which could further reduce revenues. Maintenance of pipeline corrosion protection systems, flushing of pipelines, and the exercising of valves would be delayed. Streets would be resurfaced without replacing old cast iron and asbestos cement water lines and would result in premature failures and damage to newly refurbished streets.

The graph below was generated by Raftelis's financial model. It projects the financial deficit that would likely occur if the City does not adjust water rates over the next five years.

Graph 2. Water Fund Coverages Without Rate Adjustment



Because of the projected deficit, City staff worked closely with Raftelis to develop a viable financial plan for the City's water utility that includes a five-year rate model. City staff examined various options and reviewed the major factors outlined in the Input and Considerations section above.

Three different scenarios were created to show the sensitivity of the rate model, considering two key factors. The two key factors were the level of Capital Improvement Program (CIP) funding and Debt Coverage Ratio. The three scenarios included using a moderate-low CIP funding scenario and meeting the debt coverage ratio (scenario 1); using a moderate 50% CIP funding level each year and meeting the debt coverage ratio (scenario 2); and using an ultra-aggressive CIP funding level and meeting the debt coverage (scenario 3). Each of these three scenarios endeavored to reach an operating reserve fund balance of 25% per Resolution 15595. Due to the significant rate increases that would be required to implement scenarios 2 & 3, scenario #1 was recommended. For reference, the results of scenarios 2 and 3 are attached to this staff report.

The tier amounts used for the rate model are consistent with the current rate structure and not proposed to change for all classifications. Please refer to the attached current Water Rate sheet for the existing tiers for the various customer classes.

Scenario 1. Moderate-Low CIP Funding and Meet Debt Coverage (Recommended Scenario)

Table 4. Fixed Charges

Line No.	Meter Size (A)	Current Rate (B)	July 1, 2023 (C)	July 1, 2024 (D)	July 1, 2025 (E)	July 1, 2026 (F)	July 1, 2027 (G)
1	5/8" or 3/4"	\$ 20.60	\$ 22.81	\$ 24.98	\$ 26.23	\$ 27.54	\$ 28.92
2	1"	32.14	33.53	36.72	38.55	40.48	42.50
3	1 1/2"	60.76	60.32	66.05	69.35	72.82	76.46
4	2"	95.25	92.48	101.27	106.33	111.65	117.23
5	3"	204.56	194.30	212.76	223.40	234.57	246.29
6	4"	348.18	328.29	359.48	377.45	396.32	416.14
7	6"	721.80	676.64	740.92	777.97	816.87	857.71
8	8"	1,037.83	971.40	1,063.68	1,116.87	1,172.71	1,231.35
9	10"	1,670.07	1,560.92	1,709.21	1,794.67	1,884.40	1,978.62

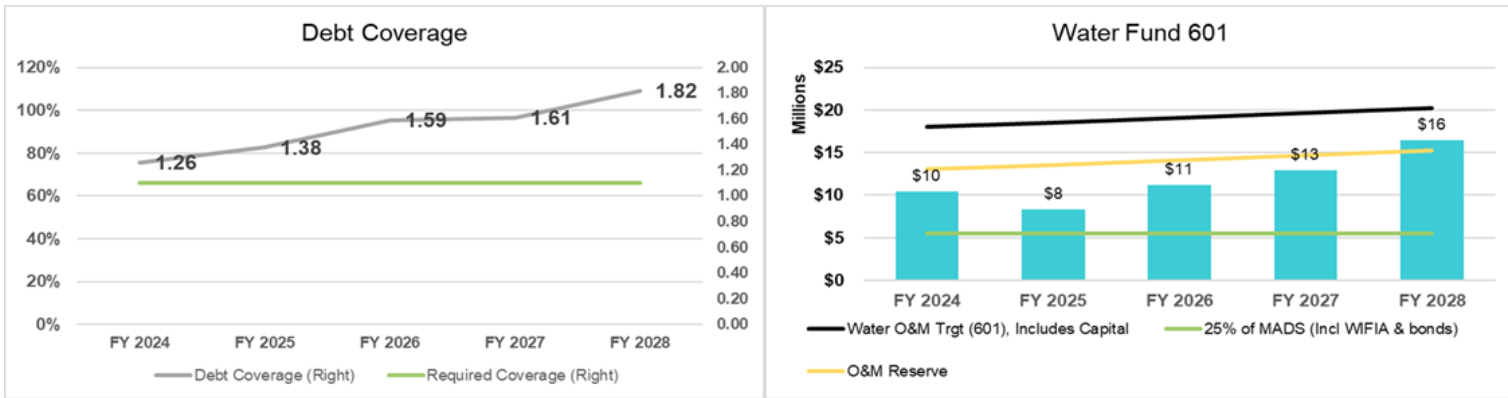
Line No.	Meter Size - Fire Lines (A)	Current Rate (B)	July 1, 2023 (C)	July 1, 2024 (D)	July 1, 2025 (E)	July 1, 2026 (F)	July 1, 2027 (G)
1	3/4"	\$ 3.66	\$ 4.79	\$ 5.25	\$ 5.51	\$ 5.78	\$ 6.07
2	1"	4.95	4.97	5.44	5.71	6.00	6.30
3	1.5"	8.13	5.61	6.14	6.45	6.77	7.11
4	2"	11.96	6.73	7.37	7.74	8.12	8.53
5	3"	24.10	10.73	11.75	12.34	12.95	13.60
6	4"	40.07	17.63	19.30	20.27	21.28	22.35
7	6"	81.59	42.40	46.43	48.75	51.19	53.75
8	8"	116.71	85.11	93.20	97.86	102.75	107.89
9	10"	186.98	149.37	163.56	171.74	180.33	189.34

Table 5. Variable Charges

Volumetric Rate			Current Rate	July 1, 2023	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027
Line No.	(A)	Tier Breakpoint	(B)	(C)	(D)	(E)	(F)	(G)
1	SFR							
2	Tier 1	0-9	\$ 3.31	\$ 4.43	\$ 4.85	\$ 5.09	\$ 5.35	\$ 5.62
3	Tier 2	>9-15	5.08	4.59	5.03	5.28	5.54	5.82
4	Tier 3	>15	6.05	4.85	5.31	5.58	5.86	6.15
5								
6	MFR							
7	Tier 1	0-8	3.53	4.42	4.84	5.08	5.34	5.60
8	Tier 2	>8	5.67	4.58	5.02	5.27	5.53	5.81
9								
10	Commercial <=2"							
11	Tier 1	0-62	3.22	4.47	4.89	5.14	5.40	5.67
12	Tier 2	>62	5.68	4.53	4.96	5.21	5.47	5.74
13	Commercial >=3"		4.47	4.77	5.22	5.48	5.76	6.05
14								
15	Industrial/City <=2"							
16	Tier 1	0-24	3.22	4.53	4.96	5.21	5.47	5.74
17	Tier 2	>24	5.68	4.75	5.20	5.46	5.73	6.02
18	Industrial >=3"		4.47	4.89	5.35	5.62	5.90	6.20
19	City >=3"		4.47	4.70	5.15	5.40	5.67	5.96
20								
21	Irrigation <=2"							
22	Tier 1	0-24	3.32	4.47	4.89	5.14	5.40	5.67
23	Tier 2	>24	5.91	4.69	5.14	5.39	5.66	5.95
24	Irrigation >=3"		5.08	4.76	5.21	5.47	5.75	6.03
25								
26	Oceanview Commercial							
27	Tier 1	0-9	3.31	\$4.87	5.33	5.60	5.88	6.17
28	Tier 2	>9-15	5.08	5.04	5.52	5.79	6.08	6.39
29	Tier 3	>15	6.05	4.84	5.30	5.56	5.84	6.14
30								
31	P&G		4.47	4.17	4.57	4.80	5.04	5.29
32	Construction		4.47	4.89	5.35	5.62	5.90	6.20

Note: Tier Breakpoints are listed in CF (One CCF is equal to 748 gallons of water).

Graph 3. Debt Coverage and Reserves Tables



Drought Rates

During droughts, customers play their part in helping to conserve precious water supplies resulting in reduced consumption. There is a corresponding, but not equal, reduction in expenditures because less water has to be procured. Ultimately, the reduced consumption impacts revenues, but the costs to operate the water system remain relatively constant. City Council can implement drought rates to ensure revenue covers remaining costs during severe drought cycles.

Please note the proposed drought rate values in the attached Ordinance are lower than what was published in the Prop 218 notice. The recommended drought rate values are listed in the cost of service (COS) study, presented in Table 6 below, and in the attached Ordinance. The approval of lower amounts is allowed and staff recommends the Council adopt the proposed lower values stated in the Ordinance. This will ensure that if a drought rate is used in the future, the completeness and integration of the COS study is maintained for the five-year period. The recommended drought rate percent increases using scenario 1 are listed below:

Table 6. Drought Rates

Drought stage ->	1	2	3	4	5	6
Drought reduction in use	up to 10%	up to 20%	up to 30%	up to 40%	up to 50%	up to 60%
% Increase on Volumetric Rate	3.9%	9.4%	15.4%	26.2%	35.3%	58.7%

Bill Samples

The following table provides the estimated water bill amounts for a representative sample of an average single-family, multi-family, and commercial customer for the first year of the proposed rate change (July 2023) for the recommended scenario:

Table 11. Bill Impacts On Average Customer Use

Bill Impacts (for average customer use in each class with the most common meter size)				
Customer Class	Current Bill	Proposed Bill	\$ Change	% Change
SFR	\$50.39	\$62.68	\$12.29	24.4%
MFR (2 Dwelling Units, 1" Meter)	\$91.41	\$108.83	\$17.42	19.1%
Commercial <=2"	\$131.34	\$183.73	\$52.39	39.9%
Commercial >= 3"	\$2,008.19	\$2,183.39	\$175.20	8.7%
Industrial/City <=2"	\$165.90	\$232.46	\$66.56	40.1%
Industrial >= 3"	\$7,231.34	\$7,971.36	\$740.02	10.2%
City >= 3"	\$966.68	\$1,059.10	\$92.42	9.6%
Irrigation <=2"	\$295.11	\$317.01	\$21.90	7.4%
Irrigation >= 3"	\$2,445.44	\$2,350.58	-\$94.86	-3.9%
Oceanview Commercial	\$30.53	\$37.42	\$6.89	22.6%
P&G	\$273,445.07	\$254,679.46	-\$18,765.62	-6.9%
Construction	\$1,826.90	\$1,930.25	\$103.35	5.7%

Financial Assistance Programs

The City of Oxnard's Utility Rate Assistance Program "Project Assist" is available for solid waste, water and wastewater utility customers that qualify. This program was initially approved by City Council in May 2017 and has since been renewed annually. Project Assist grants financial relief equal to a monthly \$15.00 maximum credit per utility bill charged to customers who meet the eligibility requirements. For FY 2022-23, staff requested to direct \$145,000 from late penalty revenues to the Project Assist Program. The \$145,000 allocation estimated that approximately 805 eligible utility customers could participate in the program for a full fiscal year.

In FY 2022-23, with the restoration of penalties, the amount was projected to be approximately \$830,000. Through December 31, 2022, the current accumulation of late penalties is \$238,735. There are 729 customers signed up for Project Assist in FY 2022-23. Should a water rate increase be approved as part of this current Rate Study process, consideration of adjusting the Project Assist amount is recommended assuming it can be supported by the penalties.

In addition to Project Assist, the California Low Income Household Water Assistance Program (LIHWAP) is also available for low-income Oxnard residents who are struggling financially to apply for financial assistance to pay for water and wastewater bills. LIHWAP will offer a one-time payment to help customers with their past due water or wastewater bills, up to a maximum of \$2,000 per account. This program will help pay overdue bills which accrue during any time frame; in other words, there are no date restrictions on the bill relief period.

Outreach Information

Since November 2022, the City has coordinated a multi-faceted outreach campaign to raise awareness of the cost to operate the City's water system. Meetings were held on Monday, December 12th, Saturday, January 7th, and Monday, January 23rd to discuss the cost to operate the City's water system and seek public feedback. After distributing a bilingual press release on November 29th, the meeting details were published in VC Reporter on December 8th and in the VIDA newspaper on December 15th.

The City also ran English and Spanish social media ads on Facebook and Instagram; mailed approx. 40,000 bilingual utility bill inserts to customers in the December billing cycle; and published a bilingual print ad in VIDA newspaper on December 29th.

The City supplemented its paid outreach by including flyers in the neighborhood councils' weekly packets and regularly posting on Nextdoor, Twitter, Facebook, and Instagram. The City also shared the Water Division's Water 101 videos in English and Spanish and created a YouTube playlist covering topics from the first community meeting to share with the community.

Through the City's investment in paid social media posts, the City was able to reach more than 32,800 Oxnard community members with information about meetings and nearly 300 people clicked on the link in the post to learn more. As of April 13th, organic views of the YouTube "Water Costs Question & Answer" clips total nearly 600.

On March 16th, the City issued a news release containing information on the proposed rate adjustment for water services, completion of the Water Rate Study, Proposition 218 Notices and the Public Hearing scheduled for May 2nd. This also contained information on how the public could obtain more information, participate to express their opinion and how to file a formal protest.

Requirements for Prop 218 and Timeline

Proposition 218 has very strict rules that govern the revenue of the water utility. Specifically:

- a. An agency cannot collect revenue beyond what is necessary to provide service.
- b. Revenues derived by the charge shall not be used for any other purpose other than that for which the charge was imposed.
- c. The amount of the fee may not exceed the proportional cost of service for the parcel.
- d. No charge may be imposed for a service unless that service is actually used or immediately available to the owner of the property.
- e. A written notice of the proposed change shall be mailed to the record owner of each parcel at least 45 days prior to the public hearing when the agency considers all written protests against the charge.

In 2015, the City adopted Resolution Number 14,877 which outlines the procedures for establishing and increasing fees and charges under Proposition 218 (Resolution 14,877 is attached for reference). The proceedings for the proposed water rate increase are consistent with the requirements outlined in this Resolution.

In accordance with Proposition 218 and City Resolution 14,877, the City mailed Proposition 218 notices to both parcel owners and water service account holders. Attached are the proofs of service from the post office for the mailing of the Proposition 218 notices. Attached is a copy of the Proposition 218 notice. Should the number of written protests received before the close of the Public Hearing on May 2, 2023, be 21,930 or higher, the rate proceedings shall not continue and the City Council is prohibited from increasing water rates. Should written protests received be less than 21,930, the proceedings may continue for the Council's consideration of a rate increase.

CEQA Exemption

The California Environmental Quality Act (CEQA) does not apply to the water rate ordinance because the ordinance establishes, modifies, structures and/or restructures the City's rates and other charges for water use and related services.

Public Resource Code section 21080(b)(8) in conjunction with Title 14, Chapter 3 of the California Code of Regulations section 15273, exempts water rate modifications when the establishment and modification of rates are for the following purposes: (1) meeting the water utility's operating expenses, including employee wages and fringe benefits; (2) Purchasing or leasing supplies, equipment, and materials; (3) meeting the Water Fund's financial reserve needs and requirements; and (4) obtaining funds for capital projects necessary to maintain water service within the existing service areas. The proposed water rate increases and adoption of a water rate ordinance is covered by the general rule that CEQA applies only to projects that will have a significant effect on the environment. There is no possibility that the proposed water rate increases and passage of the water rate ordinance will have a significant effect on the environment and adoption of this ordinance is exempt from CEQA. (Public Resource Code section 21083).

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

Requesting a water rate increase is taking the necessary steps to improve the water system's financial performance and reduce the possibility of future bond rating downgrades. Bond rating downgrades indicate a risk the City may not be able to repay its debts and result in higher interest rates. In order to strengthen the water system's financial standing, rates must be increased. As noted above, to provide revenue that will meet the debt coverage ratio, sustain critical operations and maintenance, and fund capital expenditures, a corresponding rate adjustment is recommended. Absent an increase in

rates, significant decreases to the water operations, deferring of maintenance items, and ceasing critical capital projects will need to be considered.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Joseph Marcinko, Assistant Public Works Director

ATTACHMENTS

1. Water-Rates-Ordinance July 1 2023
2. Prop 218 Notice USPS Proof of Service
3. Color Prop 218 Notice Proof
4. Resolution No. 14,877 (Prop 218)
5. Water Rate Scenarios 2 and 3
6. Presentation

ORDINANCE NO.

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD TO
ESTABLISH WATER RATE AND FEE INCREASES FOR CUSTOMER
USE AND SERVICE FROM THE CITY WATER SERVICE

WHEREAS, Section 22-60 of the Oxnard City Code requires that the City Council establish by ordinance the rates charged for all water supplied by the City; and

WHEREAS, Section 22-60 of the Oxnard City Code provides that the rates charged for water supplied by the City shall be increased by the same percentage that the rates paid by the City to its water supply wholesalers increase; and

WHEREAS, the Water Division of the Public Works Department operates as a self-supporting enterprise fund (Water Fund) that depends upon revenues derived from the sale of water to City customers; and

WHEREAS, on the 18th of July, 2017, the City Council adopted City Ordinance Number 2921, establishing the current rates and charges applicable to City water customers; and

WHEREAS, the City's Public Works Department completed a Cost of Service Study, dated March 2023 (Rate Study). The Rate Study assesses the water utility's operation, maintenance, repair, replacement, and capital improvement program budgets and requirements, through a cost of service analysis and report, which collectively are incorporated into the recommended rates provided in this ordinance, so that the proportional cost of providing water service to the City's customers are allocated appropriately and in conformity with all applicable legal requirements. The Cost of Service Study and all the studies, plans and documents relied upon and incorporated in the Rate Study provide the basis for the rates and charges set forth herein; and

WHEREAS, this ordinance includes provisions for adjustment of rates based on revenue needs, inflation, changes in wholesale water costs and mandatory water shortage conditions; and

WHEREAS The proposed rates displayed as effective beginning July 1, 2023, show the authorized rates applicable July 1, 2023; and

WHEREAS, Public Resources Code Section 21080(b)(8) and Section 15273 of the California Environmental Quality Act (CEQA) Guidelines provide that CEQA does not apply to the establishment or modification of public agency rates and other charges which the public agency finds are intended for certain purposes.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OXNARD
DOES HEREBY FIND AS FOLLOWS:**

1. CEQA does not apply to this ordinance because this ordinance establishes, modifies, structures and restructures the City's rates and other charges for the following purposes:
 - a. Meeting the water utility's operating expenses, including employee wages and fringe benefits;
 - b. Purchasing or leasing supplies, equipment, and materials;
 - c. Meeting the Water Fund's financial reserve needs and requirements; and
 - d. Obtaining funds for capital projects necessary to maintain water service within the existing service areas.
2. The basis for the foregoing claim of exemption is found in the Rate Study.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OXNARD DOES
ORDAIN AS FOLLOWS:**

Part 1. Incorporation of Recitals. The findings and determinations reflected above are true and correct, and are incorporated by this reference as though fully set forth herein as the cause and foundation for the action taken by and through this Ordinance.

Part 2. Codified Amendment. The City Clerk is directed to request that the publisher of the City Code add thereto the amendments listed in Part 3 through 6 of this Ordinance to Chapter 22, Article III as set forth below.

Part 3. Section 22-60 ("Water Rates") of the Oxnard City Code is hereby amended in its entirety to read as follows:

SEC. 22-60. WATER RATES.

(A) The rates charged for all water supplied by the city shall be established by ordinance of the city council. Each customer receiving water service is liable for payment for such service at the scheduled rates so established.

(B) Pursuant to Cal. Gov't Code, Section 53756, the City may adopt a schedule of fees or charges authorizing automatic adjustments that pass through increases in wholesale charges for water and adjustments for inflation, for a period of 5 years. The amount of automatic adjustments (Pass-Through Charges) to account for changes in wholesale water costs will be based directly on the incremental difference in costs that the City will incur from every third party water supplier (including but not limited to United Water Conservation District and Calleguas Municipal Water District) as a result of increases or decreases in the amount such water suppliers charge the City. Any such adjustments will only be made if the increases or decreases are not already reflected in the schedule of charges then in effect. The pass-through cost applies only to the volumetric usage charge component of the water used and will be assessed on all volumetric

use in hundred cubic feet (“HCF”) used by a customer. A notice of at least thirty (30) days will be provided to customers before any such adjustment will take effect.

The automatic Pass-Through Charge is calculated as follows:

$$\text{Pass through rate (\$/HCF)} = (\text{Proposed FY Water Purchase Costs} - \text{FY 2022-2023 Water Purchase Costs}) / (\text{Calendar Year Water Use})$$

(C) Annual Revenue Adjustment

Revenue adjustments are not the same as rate increases. The revenue adjustments in the table below depict the overall total increase in rates revenue and correlate to the yearly rate increases found in the Rates and Charges in Sections 22-61, subparagraphs (A) through (G), and (I) through (K); and 22-62, subparagraphs (A) through (C).

Revenue Adjustments

July 1, 2023	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027
9.5%	9.5%	5.0%	5.0%	5.0%

(D) When the city council declares the existence of a water shortage condition pursuant to section 22-154 of the city code, the water rates and charges provided in sections 22-61 through 22-66 of the city code that are based on water use shall be adjusted to reflect the level of severity and corresponding mandatory water conservation percentage reflected in the water shortage condition declaration. For example, if the council declares a Stage 2 water shortage condition with a mandatory water use reduction goal of 20% then the rates provided in sections 22-61 through 22-66 of the city code that are based on water use shall be concurrently adjusted upward by a Drought Rate Calculation Percentage, which is 9.4% for a 20% reduction. This drought rate adjustment may be initiated by Resolution of the City Council after a declaration of water shortage condition. The drought rate adjustment shall terminate as of the date of the termination of that water shortage condition declaration.

(1) The Drought Rate Adjustments, based on the Stage of the Water Shortage Condition are as follows:

Stage 1 Up to 10% = 3.9% Increase
Stage 2 Up to 20% = 9.4% Increase
Stage 3 Up to 30% = 15.4% Increase
Stage 4 Up to 40% = 26.2% Increase

Stage 5 Up to 50% = 35.3% Increase
Stage 6 Up to 60% = 58.7% Increase

Part 4. Section 22-61 of the Oxnard City Code is hereby renamed "Monthly Water Usage Rates, Fees and Charges" and is hereby amended in its entirety to read as follows:

SEC. 22-61. MONTHLY WATER USAGE RATES, FEES AND CHARGES.

The following rates, fees, and charges for water usage and services relating to the water system of the city are established and effective during the dates indicated, as follows:

(A) Monthly Rates for Single-Family Residential Water Use:

Tier	Usage in HCF	Effective July 1, 2023	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027
1	0 to 9	\$4.43	\$4.85	\$5.09	\$5.35	\$5.62
2	>9 to 15	\$4.59	\$5.03	\$5.28	\$5.54	\$5.82
3	>15	\$4.85	\$5.31	\$5.58	\$5.86	\$6.15

(B) Monthly Rates For Multi-Family Residential Water Use (per dwelling):

Tier	Usage in HCF (Per Dwelling Unit)	Effective July 1, 2023	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027
1	0 to 8	\$4.42	\$4.84	\$5.08	\$5.34	\$5.60

2	>8	\$4.58	\$5.02	\$5.27	\$5.53	\$5.81
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(C) Monthly Rates for Commercial Water Use:

2" Meters and Below

Tier	Usage in HCF	Effective July 1, 2023	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027
1	0 to 62	\$4.47	\$4.89	\$5.14	\$5.40	\$5.67
2	> 62	\$4.53	\$4.96	\$5.21	\$5.47	\$5.74

3" Meters and Above (Uniform Rate)

Effective July 1, 2023	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027
\$4.77	\$5.22	\$5.48	\$5.76	\$6.05

(D) Monthly Rates for Industrial/City Water Use:

2" Meters and Below

Tier	Usage in HCF	Effective July 1, 2023	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027
1	0 to 24	\$4.53	\$4.96	\$5.21	\$5.47	\$5.74
2	>24	\$4.75	\$5.20	\$5.46	\$5.73	\$6.02

3" Meters and Above (Industrial Uniform Rate)

Effective July 1, 2023	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027
\$4.89	\$5.35	\$5.62	\$5.90	\$6.20

3" Meters and Above (City Uniform Rate)

Effective July 1, 2023	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027
\$4.70	\$5.15	\$5.40	\$5.67	\$5.96

(E) Monthly Rates for Irrigation:

2" Meters and Below

Tier	Usage in HCF	Effective July 1, 2023	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027
1	0 to 24	\$4.47	\$4.89	\$5.14	\$5.40	\$5.67
2	>24	\$4.69	\$5.14	\$5.39	\$5.66	\$5.95

3" Meters and Above (Uniform Rate)

Effective July 1, 2023	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027
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\$4.76	\$5.21	\$5.47	\$5.75	\$6.03
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(F) Monthly Rates for Commercial, Industrial, and Irrigation Use of Recycled Water in Lieu of Potable:

Tier	Usage in HCF	Effective July 1, 2023	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027
1	Uniform Rate	\$3.60	\$3.94	\$4.14	\$4.35	\$4.57

(G) Monthly Rates for Oceanview Commercial

Tier	Usage In HCF	Effective July 1, 2023	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027
1	0 to 9	\$4.87	\$5.33	\$5.60	\$5.88	\$6.17
2	9 to 15	\$5.04	\$5.52	\$5.79	\$6.08	\$6.39
3	>15	\$4.84	\$5.30	\$5.56	\$5.84	\$6.14

(H) Monthly Rates For Oceanview Agricultural Irrigation, which will be adjusted yearly for cost of service increases to customers over 3” pursuant to the requirements in uncoded ordinance number 2752, section 4(b).

Usage in HCF	Effective September 1, 2017
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Uniform Volumetric Rate per HCF	\$1.19
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(I) Monthly Rates for Metered Construction:

Tier	All Usage	Effective July 1, 2023	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027
1	Uniform Rate	\$4.89	\$5.35	\$5.62	\$5.90	\$6.20

(J) Monthly Rates for Proctor & Gamble

Tier	All Usage	Effective July 1, 2023	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027
1	Uniform Rate	\$4.18	\$4.57	\$4.80	\$5.04	\$5.29

(K) Monthly Rates for Recycled Water by Customer Class

Customer Class	Effective July 1, 2023	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027
Irrigation (Golf Course)	\$3.60	\$3.94	\$4.14	\$4.35	\$4.57
Commercial/ Industrial	\$3.60	\$3.94	\$4.14	\$4.35	\$4.57

Part 5. Section 22-62 of the Oxnard City Code is hereby renamed to “Monthly Fixed Water Meter Charges” and is amended in its entirety to read as follows:

SEC. 22-62. MONTHLY FIXED WATER METER CHARGES.

In addition to monthly rates for water use (per HCF) as set forth in section 22-61, all accounts shall pay one of the following monthly meter rates, based on service connection or meter size as follows:

(A) Monthly Fixed Water Meter Charges According to Meter Size:

Meter Size		Effective July 1, 2023	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027
5/8” or 3/4”		\$22.78	\$24.94	\$26.19	\$27.50	\$28.87
1”		\$33.47	\$36.65	\$38.48	\$40.41	\$42.43
1 1/2”		\$60.20	\$65.92	\$69.21	\$72.68	\$76.31
2”		\$92.27	\$101.04	\$106.09	\$111.39	\$116.96
3”		\$193.84	\$212.25	\$222.87	\$234.01	\$245.71
4”		\$327.49	\$358.60	\$376.53	\$395.36	\$415.13
6”		\$674.96	\$739.08	\$776.04	\$814.84	\$855.58
8”		\$968.98	\$1061.03	\$1114.08	\$1169.79	\$1228.28
10”		\$1557.02	\$1704.94	\$1790.18	\$1879.69	\$1973.68
10”	Proctor & Gamble Only	\$579.29	\$634.33	\$666.04	\$699.35	\$734.31

(B) Monthly Fixed Charges for Fire Service Lines:

Fire Protection – Connection Size	Effective July 1, 2023	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027
¾”	\$4.79	\$5.25	\$5.51	\$5.78	\$6.07
1”	\$4.97	\$5.44	\$5.71	\$6.00	\$6.30
1 ½”	\$5.62	\$6.15	\$6.46	\$6.78	\$7.12
2	\$6.73	\$7.37	\$7.74	\$8.12	\$8.53
3	\$10.72	\$11.74	\$12.33	\$12.94	\$13.59
4	\$17.62	\$19.29	\$20.26	\$21.27	\$22.34
6	\$42.35	\$46.37	\$48.69	\$51.13	\$53.68
8	\$85.01	\$93.09	\$97.74	\$102.63	\$107.76
10	\$149.18	\$163.35	\$171.52	\$180.10	\$189.10

(C) Monthly Charges for Recycled Water Meters:

Meter Size	Effective July 1, 2023	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027
4”	\$327.49	\$358.60	\$376.53	\$395.36	\$415.13
6”	\$674.96	\$739.08	\$776.04	\$814.84	\$855.58
8”	\$968.98	\$1061.03	\$1114.08	\$1169.79	\$1228.28

12"	\$2,305.43	\$2,524.45	\$2,650.67	\$2,783.20	\$2,922.36
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(D) Monthly fixed rates for non-metered construction:

Meter Size	Effective Sept. 1, 2017
¾"	\$36.86
1"	\$67.93
1 ½"	\$156.77
2"	\$295.26

(E) Monthly fixed rates for metered construction:

Meter Size	Effective Sept. 1, 2017
1"	\$22.53
3"	\$147.47

Part 6. Section 22-63 ("Special Water Services") of the Oxnard City Code is herein amended in its entirety to read as follows:

SEC. 22-63. SPECIAL WATER SERVICES.

Each customer shall pay the following fees, according to the service received.

(A) Effective July 1, 2023. Where meters are not installed, water services shall be paid at the rate and or fee as set forth in sections 22-61 and 22-62 of this Article, for each dwelling facility, business activity, construction site, or service, whether or not such facility, activity, site or service is at the same location. Any unmetered service shall be temporary and limited to the shortest duration practical.

(B) Service to the city.

(1) The city shall pay for all installation services furnished to the city at the rates established by this Article. However, the Water Division shall be exempt from paying for installation service.

(2) The city shall pay for all water furnished to the city at the rates established by this Article. However, the Water Division and the Fire Department shall be exempt from paying for water provided to them.

(3) All water furnished to property owned by the city shall be metered.

(E) Temporary agricultural use. The city may provide water on a temporary basis for agricultural purposes in accordance with section 22-66 of the city code. Monthly water rates for temporary agricultural purposes shall be the same as commercial/industrial recycled water rates or commercial potable water rates.

(F) Broken locks. In the event a customer breaks a lock placed on the water meter, in addition to all other amounts due, the customer shall pay a fee of \$12 to replace the broken lock.

(G) Billing and collection; delinquent bills; nonpayment. The customer shall pay a fee of \$15 for each visit to a customer's property to collect a water bill that is delinquent. If water service is discontinued due to nonpayment or non-compliance with the city code or this section, in addition to all other amounts due, the customer shall pay a fee of \$80 for resuming service.

(H) Billing procedure for periodic charge for city water service. Water service bills shall be computed according to the rates then in effect and the number of days in the service period at each rate.

Part 7. The provisions of this ordinance shall be applicable to all service provided or charges incurred on and after July 1, 2023.

Part 8. If any term or portion of this ordinance is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this ordinance shall continue in full force and effect. Where that is the case, the City Council intends that the provisions of Ordinance No. 2921 that would have been repealed by this ordinance shall remain in effect as if this ordinance had not been adopted.

Part 9. The City Council exercises its independent judgment and made findings herein above, that this ordinance is not subject to CEQA pursuant to Public Resources Code section 21080(b)(8) and 21083 in conjunction with California Code of Regulations, Title 14, Chapter 3, section 15273 (CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, or other charges by public agencies which the public agency makes appropriate findings pursuant to this section), because the activity is covered by the general rule that CEQA applies only to projects that will have a significant effect on the environment. There is no possibility that the passage of this ordinance will have a significant effect on the environment and adoption of this ordinance is exempt from CEQA.

Part 10. Pursuant to Government Code Section 36933(c)(1), the City Attorney was designated to prepare, and the City Clerk published, a summary of this ordinance, and a certified copy of the ordinance was posted in the Office of the City Clerk a minimum of five (5) days before the City Council's adoption of the ordinance.

Part 11. The City Clerk shall certify as to the adoption of this ordinance and shall cause the summary thereof to be published within fifteen (15) calendar days of the adoption and shall post a certified copy of this ordinance, including the vote for and against the same, in the office of the City Clerk, in accordance with Government Code Section 36933. Ordinance No. _____ was first read on May 2, 2023, finally adopted on May 16, 2023 to become effective on July 1, 2023.

AYES:

NOES:

ABSENT:

ABSTAIN:

John Zaragoza, Mayor

ATTEST:

Rose Chaparro, City Clerk

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney

United States Postal Service
Postage Statement -- First-Class Mail

Processed By: SS1 on 03/13/23 04:43:40 PM

Transaction Number: 202307218434005 M0	CAPS / EPS Transaction Number:	Postage Statement Number: 534346585
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Mailing Group	Mailing Group ID 402349552	Mailing Job Number J16730 City of Oxnard	Open Date 03-13-2023
	Preparer 399-PI-National Graphics	Origin PSW - Mailer Entered	Close Date
	Job Description		

Mailer	Permit Holder's Name and Address and Email Address, if Any	Name and Address of Mailing Agent <i>(If other than permit holder)</i>	Name and Address of Individual or Organization for Which Mailing is Prepared <i>(If other than permit holder)</i>
	CITY OF OXNARD 305 W 3RD ST OXNARD, CA 93030-5790 Contact Name: PATRICIA GARCIA,LBOERNER,MHART (805)385-7539 patricia.garcia@oxnard.org CAPS Customer Ref. No: J16730_City_of_Oxnard CRID: 3393333	National Graphics 200 N ELEVAR ST OXNARD, CA 93030-7969 Contact Name: ROBERT ACOSTA (805)981-2600 robert.acosta@v3corporation.com CRID: 1842207	CITY OF OXNARD 305 W 3RD ST OXNARD, CA 93030-5790 Contact Name: PATRICIA GARCIA,LBOERNER,MHART (805)385-7539 patricia.garcia@oxnard.org CRID: 3393333

Mailing	Post Office of Mailing OXNARD CA 93030-9998	Processing Category Letters (may include Cards)	Parcels Only Hold For Pickup (HFPU): No. of Pieces 0	Mailer's Mailing Date 03/13/23	Federal Agency Cost Code	Statement Seq. No.	No. & type of Containers Sacks: 0 1 ft. Letter Trays: 0 2 ft. Letter Trays: 164 EMM Letter Trays: 0 Flat Trays: 0 Pallets: 8 Other: 0
	Type of Postage Permit Imprint			Weight of a Single Piece 0.0500 lbs.	Combined Mailing []Single Class	SSF Transaction ID #	
						Total Pieces 42,533	
	Permit # 399	For Mail Enclosed Within Another Class []Marketing Mail []Bound Printed Matter []Library Mail []Media Mail []Periodicals []Parcel Post			Customer Generated Electronic Labels [] SigCon		
	For Automation Rate Pieces, Enter Date of Address Matching and Coding 03/13/23		Move Update Method:		Total Weight 2,126.6500 lbs.		

Postage	Letter-size mailpieces contain: ☐ Round Trip Only: One DVD/CD or other disk	Parts Completed A	
	This is a Political Mailing No This is Official Election Mail No	Subtotal Postage <i>(Add parts totals)</i>	\$19,905.44
	Complete if the mailing includes pieces bearing metered/PC Postage or precanceled stamps. Rate at Which Postage Affixed <i>(Check one)</i> ☐ Correct ☐ Lowest ☐ Neither	_____ pcs. x \$ _____._____ = Postage Affixed	\$0.000
	Incentive/Discount Flat Dollar Amount		\$-127.60
	Fee _____		\$0.00
	Net Postage Due		\$19,905.44
	For USPS Use Only: Additonal Postage Payment <i>(State reason)</i>		
	Total USPS Adjusted Postage		\$19,905.44

Certification	Incentive/Discount Claimed: N/A	Type of Fee: N/A
	The mailer certifies acceptance of liability for and agreement to pay any revenue deficiencies assessed on this mailing, subject to appeal. If an agent certifies that he or she is authorized on behalf of the mailer then that mailer is bound by the certification and agrees to pay any deficiencies. In addition, agents may be liable for any deficiencies resulting from matters within their responsibility, knowledge, or control. The mailer hereby certifies that all information furnished on this form is accurate, truthful, and complete; that the mail and the supporting documentation comply with all postal standards and the mailing qualifies for the prices and fees claimed; and that the mailing does not contain any matter prohibited by law or postal regulation. I understand that anyone who furnishes false or misleading information on this form or who omits information requested on this form may be subject to criminal and/or civil penalties, including fines and imprisonment. Privacy Notice: For information regarding our Privacy Policy visit www.usps.com	

This postage statement was verified and accepted under the PostalOne! program. No postal signature or round stamp is required.

Part A							
Automation Prices							
Letters							
		Price	No. of Pieces	Subtotal Postage	Discount Total*	Fee Total	Total Postage
A4	5-Digit	\$0.471	42,533	\$20,033.04 30	\$-127.5990	\$0.0000	\$19,905.4440
A11	Part A Total(Add lines A1-A10)						\$19,905.44
A13	DISPLAY ONLY Letters - Number of pieces that comply 42533.0 x 0.003 =						\$127.5990

* May contain both Full Service Intelligent Mail and other discounts.

United States Postal Service
Postage Statement -- First-Class Mail

Processed By: SS1 on 03/15/23 04:34:06 PM

Transaction Number: 202307418340698 M0	CAPS / EPS Transaction Number:	Postage Statement Number: 534714305
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Mailing Group	Mailing Group ID 402659608	Mailing Job Number J16730 City of Oxnard D2	Open Date 03-15-2023
	Preparer 399-PI-National Graphics	Origin PSW - Mailer Entered	Close Date
	Job Description		

Mailer	Permit Holder's Name and Address and Email Address, if Any CITY OF OXNARD 305 W 3RD ST OXNARD, CA 93030-5790 Contact Name: PATRICIA GARCIA,LBOERNER,MHART (805)385-7539 patricia.garcia@oxnard.org	Name and Address of Mailing Agent (If other than permit holder) National Graphics 200 N ELEVAR ST OXNARD, CA 93030-7969 Contact Name: ROBERT ACOSTA (805)981-2600 robert.acosta@v3corporation.com	Name and Address of Individual or Organization for Which Mailing is Prepared (If other than permit holder) CITY OF OXNARD 305 W 3RD ST OXNARD, CA 93030-5790 Contact Name: PATRICIA GARCIA,LBOERNER,MHART (805)385-7539 patricia.garcia@oxnard.org
	CAPS Customer Ref. No: J16730_City_of_Oxnard_D2 CRID: 3393333	CRID: 1842207	CRID: 3393333

Mailing	Post Office of Mailing OXNARD CA 93030-9998	Processing Category Letters (may include Cards)	Parcels Only Hold For Pickup (HFPU): No. of Pieces 0	Mailer's Mailing Date 03/15/23	Federal Agency Cost Code	Statement Seq. No.	No. & type of Containers Sacks: 0 1 ft. Letter Trays: 7 2 ft. Letter Trays: 169 EMM Letter Trays: 0 Flat Trays: 0 Pallets: 7 Other: 0	
	Type of Postage Permit Imprint			Weight of a Single Piece 0.0500 lbs.	Combined Mailing []Single Class	SSF Transaction ID #		
						Total Pieces 43,402		
	Permit # 399	For Mail Enclosed Within Another Class []Marketing Mail []Bound Printed Matter []Library Mail []Media Mail				[]Periodicals []Parcel Post		Customer Generated Electronic Labels [] SigCon
	For Automation Rate Pieces, Enter Date of Address Matching and Coding 03/15/23		Move Update Method:			Total Weight 2,170.1000 lbs.		

Postage	Letter-size mailpieces contain: []Round Trip Only: One DVD/CD or other disk	Parts Completed A	
	This is a Political Mailing No This is Official Election Mail No	Subtotal Postage (Add parts totals)	\$20,683.36
	Complete if the mailing includes pieces bearing metered/PC Postage or precanceled stamps. Rate at Which Postage Affixed (Check one) []Correct []Lowest []Neither	_____ pcs. x \$ _____ = Postage Affixed	\$0.000
	Incentive/Discount Flat Dollar Amount		\$-130.21
	Fee _____		\$0.00
	Net Postage Due		\$20,683.36
	Total USPS Adjusted Postage		\$20,683.36

Certification	Incentive/Discount Claimed: N/A	Type of Fee: N/A
	The mailer certifies acceptance of liability for and agreement to pay any revenue deficiencies assessed on this mailing, subject to appeal. If an agent certifies that he or she is authorized on behalf of the mailer then that mailer is bound by the certification and agrees to pay any deficiencies. In addition, agents may be liable for any deficiencies resulting from matters within their responsibility, knowledge, or control. The mailer hereby certifies that all information furnished on this form is accurate, truthful, and complete; that the mail and the supporting documentation comply with all postal standards and the mailing qualifies for the prices and fees claimed; and that the mailing does not contain any matter prohibited by law or postal regulation. I understand that anyone who furnishes false or misleading information on this form or who omits information requested on this form may be subject to criminal and/or civil penalties, including fines and imprisonment. Privacy Notice: For information regarding our Privacy Policy visit www.usps.com	

This postage statement was verified and accepted under the PostalOne! program. No postal signature or round stamp is required.

Part A							
Automation Prices							
Letters							
		Price	No. of Pieces	Subtotal Postage	Discount Total*	Fee Total	Total Postage
A4	5-Digit	\$0.471	34,493	\$16,246.20 30	\$-103.4790	\$0.0000	\$16,142.7240
A5	AADC	\$0.507	6,805	\$3,450.135 0	\$-20.4150	\$0.0000	\$3,429.7200
A6	Mixed AADC	\$0.531	2,104	\$1,117.224 0	\$-6.3120	\$0.0000	\$1,110.9120
A11	Part A Total(Add lines A1-A10)						\$20,683.36
A13	DISPLAY ONLY Letters - Number of pieces that comply 43402.0 x 0.003 =						\$130.2060

* May contain both Full Service Intelligent Mail and other discounts.

PROPOSED WATER RATE INCREASES

PROPUESTA DE AUMENTO DE LAS TARIFAS DEL AGUA

PLEASE TAKE NOTICE THAT the Oxnard City Council will conduct a public hearing to consider proposed rates for water services.

Water service rates were last increased five years ago. If adopted, the proposed rate adjustments would become effective July 1, 2023, with annual rate increases through 2027.

All interested persons are invited to appear at the time and place of the Public Hearing (6 p.m. May 2, 2023, Oxnard City Council Chambers), to give oral or written testimony, as well as written protests, regarding proposed rate adjustments.

The City Council will hear and consider oral testimony and written materials submitted regarding the proposed rate increases at the hearing. The City Council has the authority to make adjustments to the proposed rate increases in response to oral testimony and written materials submitted for consideration.

INFORMATION ON HOW TO PROTEST RATE INCREASES IS LOCATED AT THE END OF THIS NOTICE.

THE REASON FOR PROPOSED WATER RATE INCREASES

The City is proposing changes that will affect your water bill. The City of Oxnard's last water service rate increase was in 2017. You are receiving this notice in compliance with Proposition 218, which requires the City to inform property owners and water customers that proposed rate increases are being considered.

The City charges these rates to its water customers in order to fund the cost of safe and reliable water service. The costs include the cost of operating and maintaining the water system, reinvesting in system infrastructure, and paying off debt used to rehabilitate the system.

NOTE QUE el Ayuntamiento de Oxnard celebrará una audiencia pública para considerar las tarifas propuestas para los servicios de agua.

Las tarifas del servicio de agua se ajustaron por última vez hace cinco años. Si se adoptan, los ajustes de tarifas propuestos entrarían en vigor el 1 de julio de 2023, con aumentos anuales de tarifas hasta el 2027.

Se invita a todas las personas interesadas a comparecer a la hora y en el lugar de la Audiencia Pública (6 p.m. del 2 de mayo de 2023, cámaras del Consejo de la Ciudad de Oxnard), para presentar testimonios orales o escritos, así como protestas por escrito, en relación con los ajustes de tarifas propuestos.

El Consejo Municipal escuchará y considerará los testimonios orales y los materiales escritos presentados en relación con los aumentos de tarifas propuestos en la audiencia. El Consejo de la Ciudad está facultado para realizar ajustes en los aumentos de tarifas propuestos según los testimonios orales y los materiales escritos presentados para su consideración.

AL FINAL DE ESTE AVISO ENCONTRARÁ INFORMACIÓN SOBRE CÓMO PROTESTAR CONTRA LOS AUMENTOS DE TARIFAS.

MOTIVO DEL AUMENTO PROPUESTO DE LAS TARIFAS DEL AGUA

La Ciudad está proponiendo cambios que afectarán su factura de agua. El último aumento de tarifas del servicio de agua de la ciudad de Oxnard fue en 2017. Usted está recibiendo este aviso en cumplimiento de la Propuesta 218, que solicita que la Ciudad informe a los propietarios y clientes de agua que se están considerando aumentos de tarifas propuestos.

La Ciudad cobra estas tarifas a sus clientes de agua y con el fin de financiar el coste de un servicio de agua seguro y fiable. Los costes incluyen el coste de funcionamiento y mantenimiento del sistema de agua, la reinversión en la infraestructura del sistema y el pago de la deuda utilizada para rehabilitar el sistema.

City of Oxnard Well #23 pumps groundwater from the Oxnard Aquifer.

El pozo n° 23 de la Ciudad de Oxnard bombea agua subterránea del acuífero de Oxnard.



BASIS FOR CALCULATING THE PROPOSED CHANGES

The City is considering rate adjustments in 2023 due to inflation and rising costs of imported water, operations, maintenance, and environmental and regulatory compliance. The last time Oxnard's water rates increased was in 2017. Per State law, revenues generated from water rate increases must only be used to fund the actual costs of water services - including the cost of debt to finance capital improvement projects.

With help from an independent consultant, a rate study was performed to assess the revenue increases needed. The proposed rates are determined based on the projected revenue needed to fund operation and maintenance costs, water purchase costs from two water wholesalers (Calleguas Municipal Water District and United Water Conservation District), capital project costs, and establish debt coverage ratios required by bondholders. The rate recommendations were presented to Oxnard's City Council during a public rates workshop on February 11, 2023.

BASE PARA CALCULAR LOS CAMBIOS PROPUESTOS

La ciudad está considerando la posibilidad de ajustar las tarifas en 2023 debido a la inflación y al aumento de los costes del agua importada, las operaciones, el mantenimiento y el cumplimiento medioambiental y normativo. La última vez que las tarifas de agua de Oxnard aumentaron fue en 2017. Según la ley estatal, los ingresos generados por los aumentos de las tarifas del agua solo deben utilizarse para financiar los costes reales de los servicios de agua, incluido el coste de la deuda para financiar proyectos de mejora de capital.

Con la ayuda de un asesor independiente, se realizó un estudio de tarifas para evaluar los aumentos de ingresos necesarios. Las tarifas propuestas se determinan en función de los ingresos previstos necesarios para financiar los costes de funcionamiento y mantenimiento, los costes de compra de agua a dos mayoristas (Calleguas Municipal Water District and United Water Conservation District), los costes de los proyectos de capital y establecer los índices de cobertura de la deuda exigidos por los tenedores de bonos. Las recomendaciones sobre tarifas se presentaron al Consejo de la Ciudad de Oxnard durante un taller público sobre tarifas celebrado el 11 de febrero de 2023.

The Cost of
Service Study is
available at
OxnardWater.org



El Estudio del
Coste del Servicio
está disponible en
OxnardWater.org

HOW TO CALCULATE YOUR BILL | CÓMO CALCULAR SU FACTURA

Water service rates have two components:

Las tarifas del servicio de agua tienen dos componentes:

- (1) a fixed charge**, which is based on meter size (e.g., 3/4"). See the "Proposed Monthly Fixed Water Meter Charges" in the tables that follow.
un costo fijo, basado en el tamaño del medidor (por ejemplo, 3/4"). Ver las tablas de "Cargos Fijos Mensuales Propuestos para los Medidores de Agua" adjunto.
- (2) a usage charge**, which is based on the amount of water used in hundred cubic feet (CCF*) each billing period. See the "Proposed Monthly Water Volumetric Rates" in the tables that follow. *1 CCF (Hundred Cubic Feet)= 748 gallons
un costo por uso, que se basa en la cantidad de agua utilizada en cientos de pies cúbicos (CCF*) en cada período de facturación. Ver las tablas de "Tarifas Volumétricas Mensuales de Agua Propuestas" adjunto. *1 CCF (Cien pies cúbicos) = 748 galones

Type of Charge <i>Tipo De Costo</i>	(1) Monthly Fixed Water Meter Rate <i>Tarifa Mensual De Agua Fija Por Medidor</i>	(2) Monthly Water Usage Rate <i>Tarifa Mensual Por Uso De Agua</i>	Total
Formula <i>Fórmula</i>	Fee for your meter size <i>Tarifa por su tamaño de medidor</i>	Monthly Use x Usage Rate <i>Uso mensual x Tarifa de uso</i>	Proposed Total Monthly Water Bill <i>Factura mensual de agua total propuesta</i>
Single-Family Residential (SFR) Calculations <i>Cálculos por Casa Residencial de Unifamiliar</i>	\$22.78 (¾" meter size) <i>(tamaño de medidor ¾")</i>	\$39.87 (9 CCF x \$4.43) <i>(9 HCF x \$4.43)</i>	\$62.65 <i>(\$22.78 + \$39.87)</i>

This example calculation assumes a Single-Family Residence (SFR) with a ¾" meter with usage of 9 CCF/month.

Este ejemplo de cálculo se lo supone para una residencia unifamiliar (SFR, por sus siglas en inglés) con un medidor de ¾" y un uso de 9 CCF/mes.

NOTE: CURRENT OXNARD WATER RATES ARE AVAILABLE AT WWW.OXNARDWATER.ORG

NOTA: LAS TARIFAS ACTUALES DEL AGUA DE OXNARD ESTÁN DISPONIBLES EN WWW.OXNARDWATER.ORG

PROPOSED MONTHLY FIXED WATER METER CHARGES

TARIFAS FIJAS MENSUALES PROPUESTAS PARA LOS MEDIDORES DE AGUA

Proposed monthly fixed water meter charges by meter size.

Cuotas fijas mensuales propuestas por medidor de agua por tamaño de medidor

Meter Size <i>Tamaño de medidor</i>	July 1, 2023 <i>1 de julio de 2023</i>	July 1, 2024 <i>1 de julio de 2024</i>	July 1, 2025 <i>1 de julio de 2025</i>	July 1, 2026 <i>1 de julio de 2026</i>	July 1, 2027 <i>1 de julio de 2027</i>
5/8" or 3/4"	\$22.78	\$24.94	\$26.19	\$27.50	\$28.87
1"	\$33.47	\$36.65	\$38.48	\$40.41	\$42.43
1 1/2"	\$60.20	\$65.92	\$69.21	\$72.68	\$76.31
2"	\$92.27	\$101.04	\$106.09	\$111.39	\$116.96
3"	\$193.84	\$212.25	\$222.87	\$234.01	\$245.71
4"	\$327.49	\$358.60	\$376.53	\$395.36	\$415.13
6"	\$674.96	\$739.08	\$776.04	\$814.84	\$855.58
8"	\$968.98	\$1,061.03	\$1,114.08	\$1,169.79	\$1,228.28
10"	\$1,557.02	\$1,704.94	\$1,790.18	\$1,879.69	\$1,973.68
10" - P&G	\$579.29	\$634.33	\$666.04	\$699.35	\$734.31

Fire Protection - Connection Size <i>Protección contra incendios - Tamaño de la conexión</i>	July 1, 2023 <i>1 de julio de 2023</i>	July 1, 2024 <i>1 de julio de 2024</i>	July 1, 2025 <i>1 de julio de 2025</i>	July 1, 2026 <i>1 de julio de 2026</i>	July 1, 2027 <i>1 de julio de 2027</i>
3/4"	\$4.79	\$5.25	\$5.51	\$5.78	\$6.07
1"	\$4.97	\$5.44	\$5.71	\$6.00	\$6.30
1.5"	\$5.62	\$6.15	\$6.46	\$6.78	\$7.12
2"	\$6.73	\$7.37	\$7.74	\$8.12	\$8.53
3"	\$10.72	\$11.74	\$12.33	\$12.94	\$13.59
4"	\$17.62	\$19.29	\$20.26	\$21.27	\$22.34
6"	\$42.35	\$46.37	\$48.69	\$51.13	\$53.68
8"	\$85.01	\$93.09	\$97.74	\$102.63	\$107.76
10"	\$149.18	\$163.35	\$171.52	\$180.10	\$189.10

PROPOSED MONTHLY WATER VOLUMETRIC RATES

TARIFAS VOLUMÉTRICAS MENSUALES DE AGUA PROPUESTAS

Proposed monthly water use rates are shown for each customer class and tier. For reference, the City of Oxnard measures water use (consumption) in CCFs or hundred cubic feet. One CCF is equal to 748 gallons of water. The current tier breakpoints will remain the same. As an example, Single Family Residential (SFR) customer water use tiers are: Tier 1- 0 to 9 CCF; Tier 2- 9 to 15 CCF; and Tier 3- Above 15 CCF.

Las tarifas mensuales de agua propuestas se muestran para cada clase y nivel de cliente. Como referencia, la ciudad de Oxnard mide el uso (consumo) de agua en CCF o cien pies cúbicos. Un CCF equivale a 748 galones de agua. Los actuales puntos de corte por niveles seguirán siendo los mismos. Por ejemplo, los niveles de consumo de agua de los clientes residenciales unifamiliares (SFR, por sus siglas en inglés) son: Nivel 1: de 0 a 9 CCF; Nivel 2: de 9 a 15 CCF; y Nivel 3: más de 15 CCF.

Volumetric Rate Tarifa Volumétrica	Tier Breakpoint Corte por Nivel	July 1, 2023 1 de julio de 2023	July 1, 2024 1 de julio de 2024	July 1, 2025 1 de julio de 2025	July 1, 2026 1 de julio de 2026	July 1, 2027 1 de julio de 2027
SFR						
Tier 1 Nivel 1	0-9 CCF	\$4.43	\$4.85	\$5.09	\$5.35	\$5.62
Tier 2 Nivel 2	>9-15 CCF	\$4.59	\$5.03	\$5.28	\$5.54	\$5.82
Tier 3 Nivel 3	>15 CCF	\$4.85	\$5.31	\$5.58	\$5.86	\$6.15
MFR						
Tier 1 Nivel 1	0-8	\$4.42	\$4.84	\$5.08	\$5.34	\$5.60
Tier 2 Nivel 2	>8	\$4.58	\$5.02	\$5.27	\$5.53	\$5.81
Commercial <=2" Comercial <=2"						
Tier 1 Nivel 1	0-62	\$4.47	\$4.89	\$5.14	\$5.40	\$5.67
Tier 2 Nivel 2	>62	\$4.53	\$4.96	\$5.21	\$5.47	\$5.74
Commercial >=3" Comercial >=3"		\$4.77	\$5.22	\$5.48	\$5.76	\$6.05
Industrial/City <=2" Industrial/Ciudad <=2"						
Tier 1 Nivel 2	0-24	\$4.53	\$4.96	\$5.21	\$5.47	\$5.74
Tier 2 Nivel 2	>24	\$4.75	\$5.20	\$5.46	\$5.73	\$6.02
Industrial >=3" Industrial >=3"		\$4.89	\$5.35	\$5.62	\$5.90	\$6.20
City >=3" Ciudad >=3"		\$4.70	\$5.15	\$5.40	\$5.67	\$5.96
Irrigation <=2" Riego <=2"						
Tier 1 Nivel 1	0-24	\$4.47	\$4.89	\$5.14	\$5.40	\$5.67
Tier 2 Nivel 2	>24	\$4.69	\$5.14	\$5.39	\$5.66	\$5.95
Irrigation >=3" Riego >=3"		\$4.76	\$5.21	\$5.47	\$5.75	\$6.03
Oceanview Commercial Comercial con Vista al Mar						
Tier 1 Nivel 1	0-9	\$4.87	\$5.33	\$5.60	\$5.88	\$6.17
Tier 2 Nivel 2	>9-15	\$5.04	\$5.52	\$5.79	\$6.08	\$6.39
Tier 3 Nivel 3	>15	\$4.84	\$5.30	\$5.56	\$5.84	\$6.14
P&G		\$4.18	\$4.57	\$4.80	\$5.04	\$5.29
Construction Construcción		\$4.89	\$5.35	\$5.62	\$5.90	\$6.20

SAMPLE BILL

EJEMPLO DE FACTURA

The following table provides the estimated water bill on average per customer class for the first year of the proposed rate change (July 2023).

La siguiente tabla muestra la factura de agua estimada promedio por clase de cliente para el primer año del cambio de tarifa propuesto (julio de 2023).

Customer Class Clase de Cliente	Current Bill Factura Actual	Proposed Bill Factura Propuesta	\$ Change Monto a Cambiar	% Change Porcentaje de cambio
Single Family Residential Residencia unifamiliar	\$50.39	\$62.65	\$12.26	24.3%
Multifamily Residential Residencia multifamiliar	\$91.41	\$108.77	\$17.36	19.0%
Commercial <=2" Comercial <=2"	\$131.34	\$183.70	\$52.36	39.9%

WHAT HAPPENS IF WE DO NOT RAISE WATER RATES?

¿QUÉ SUCEDE SI NO AUMENTAMOS LAS TARIFAS DE AGUA?

Insufficient Maintenance

- More frequent service disruptions caused by failed facilities
- Infrequent maintenance of pipelines potentially impacting water quality

Mantenimiento Insuficiente

- Interrupciones más frecuentes en el servicio causadas por fallas en las instalaciones
- Mantenimiento poco frecuente de las tuberías, que potencialmente influiría sobre la calidad del agua.

Delayed Replacement of Failing Facilities

- Increased costs because of emergency construction
- Delay in resurfacing residential neighborhoods

Retraso en la Sustitución de Instalaciones en Deterioro

- Aumento de costos debido a construcciones de emergencia
- Retrasos en la repavimentación de barrios residenciales

PROPOSED RECYCLED WATER METER CHARGES

TARIFAS PROPUESTAS PARA LOS MEDIDORES DE AGUA RECICLADA

Proposed monthly recycled water meter charges by meter size.

Tarifas mensuales propuestas para los medidores de agua reciclada por tamaño de medidor.

Meter Size Tamaño de medidor	July 1, 2023 1 de julio de 2023	July 1, 2024 1 de julio de 2024	July 1, 2025 1 de julio de 2025	July 1, 2026 1 de julio de 2026	July 1, 2027 1 de julio de 2027
4"	\$327.49	\$358.60	\$376.53	\$395.36	\$415.13
6"	\$674.96	\$739.08	\$776.04	\$814.84	\$855.58
8"	\$968.98	\$1,061.03	\$1,114.08	\$1,169.79	\$1,228.28
12"	\$2,305.43	\$2,524.45	\$2,650.67	\$2,783.20	\$2,922.36

PROPOSED MONTHLY RECYCLED WATER VOLUMETRIC RATES

TARIFAS VOLUMÉTRICAS MENSUALES DE AGUA RECICLADA PROPUESTAS

Proposed monthly recycled water use rates are shown by customer classification.

Las tarifas mensuales propuestas para el uso de agua reciclada se muestran por clasificación de clientes.

Volumetric Rate (\$ / CCF) Tarifa volumétrica	July 1, 2023 1 de julio de 2023	July 1, 2024 1 de julio de 2024	July 1, 2025 1 de julio de 2025	July 1, 2026 1 de julio de 2026	July 1, 2027 1 de julio de 2027
Irrigation (Golf Course) Riego (Campo de Golf)	\$3.60	\$3.94	\$4.14	\$4.35	\$4.57
Commercial / Industrial Comercial / Industrial	\$3.60	\$3.94	\$4.14	\$4.35	\$4.57

WHOLESALE WATER PURCHASE COST
PASS-THROUGH

The City of Oxnard has no control over the wholesale rates charged by regional wholesale water agencies (Calleguas Municipal Water District, United Water Conservation District) and will pass-through wholesale water purchase costs to the City of Oxnard water customers. The pass-through amount will not exceed the estimated cost to purchase water from the wholesale agencies. The pass-through will be calculated as the projected increase in wholesale water purchase costs divided by annual water use. The pass-through will not require a public hearing or any additional action by the Oxnard City Council. At least 30 days before the effective date of the pass-through, July 1 of each year beginning in 2024, the City will provide customers with notice of the expected pass-through.

DROUGHT COST RECOVERY RATE

The City of Oxnard depends on water sales to fund a complex system that collects, treats, and delivers safe, reliable water to your home or business. This helps ensure fairness, as customers are charged in large part by how much water they use. When customers are asked to use less, such as during droughts, it leads to lower revenues. Lower revenues are a challenge for the City, as many of the costs associated with building and maintaining a water system are fixed. Based on stages calibrated to drought severity, a Drought Recovery Rate works to offset lost revenues.

In the event that the City Council implements emergency drought stages, temporary drought recovery rates may be assessed in addition to water use rates.

TRASPASARÁ LOS COSTES DE COMPRA
DE AGUA

La Ciudad de Oxnard no tiene control sobre las tarifas de mayorista cobradas por las agencias regionales de agua al por mayor (Calleguas Municipal Water District, United Water Conservation District) y le traspasará los costes de compra de agua al por mayor a los clientes de agua de la Ciudad de Oxnard. El monto de transferencia no excederá los costos estimados para comprar agua de las agencias mayoristas. El traspaso se calculará según el aumento proyectado en los costes de compra de agua al por mayor dividido por el uso de agua anual. La transferencia no necesitará una audiencia pública ni ninguna acción adicional por el Consejo de la Ciudad de Oxnard. Al menos 20 días antes de la fecha de entrada en vigencia de la transferencia, el 1 de julio de cada año a partir de 2024, la Ciudad le brindará a los clientes una notificación de la transferencia esperada.

TASA DE RECUPERACIÓN
DE LOS COSTES DE LA SEQUÍA

La Ciudad de Oxnard depende de las ventas de agua para financiar un complejo sistema que recoge, trata y suministra agua segura y fiable a su hogar o negocio. Esto ayuda a garantizar la equidad, ya que a los clientes se les cobra en gran parte en función de la cantidad de agua que utilizan. Cuando se pide a los clientes que consuman menos, por ejemplo durante las sequías, los ingresos disminuyen. La disminución de los ingresos suponen un reto para la ciudad, ya que muchos de los costes asociados a la construcción y mantenimiento de un sistema de agua son fijos. Basada en etapas niveladas según la gravedad de la sequía, la Tasa de Recuperación de la Sequía sirve para compensar la pérdida de ingresos.

En caso de que el Consejo de la Ciudad aplique etapas de emergencia por sequía, se podrán aplicar tasas temporales de recuperación por sequía además de las tasas por uso de agua.



The following schedule shows proposed drought recovery percentage increases that would be applied if the City Council declares a drought or water shortage emergency. The percentages shown will be applied to all volumetric rates in place at the time of the drought.

En el siguiente cuadro se proponen los aumentos porcentuales de recuperación de la sequía que se aplicarían si el Consejo de la Ciudad declara una emergencia por sequía o escasez de agua. Los porcentajes indicados se aplicarán a todas las tarifas volumétricas vigentes en el momento de la sequía.

Drought Stage Etapas de sequía	1	2	3	4	5	6
Drought Reduction in Use Reducción de uso por sequía	Up to 10% Hasta 10%	Up to 20% Hasta 20%	Up to 30% Hasta 30%	Up to 40% Hasta 40%	Up to 50% Hasta 50%	Up to 60% Hasta 60%
% Increase on monthly volumetric rate % de aumento de la tarifa volumétrica mensual	4.8%	11.7%	19.8%	32.5%	42.9%	71.8%

HOW DO I PROTEST THE PROPOSED WATER RATE INCREASE?

You have the right to protest the proposed rate increases. Each written protest must (1) state the name of the identified property owner or ratepayer; (2) provide the location of the identified property (by street address or assessor's parcel number); (3) include an original signature of the submitting property owner or ratepayer.

Written protests may be submitted by mail or in person during the public hearing or prior to the conclusion of the public hearing on Tuesday, May 2, 2023 to: Oxnard City Clerk's Office, 300 West Third Street, 4th Floor, Oxnard, CA 93030

Only one written protest per affected property will be counted. Telephone, e-mail, and fax protests will not be accepted. For your convenience, you may opt to use the enclosed protest form.

- ! **Written protests must be received by the City Clerk prior to the conclusion of the public hearing.**
- ! **The Clerk will not accept or consider any protest received after the conclusion of the public hearing.**

At the public hearing, the City Council will accept and consider all written protests and hear all oral comments on the Proposed Changes. Oral comments will not be counted as protests unless accompanied by a written protest. At the conclusion of the public hearing, the City Council will consider adoption of the proposed changes as follows: (1) If less than a majority of property owners or ratepayers file a protest, the City Council will consider increasing water rates, effective July 1, 2023. (2) If a majority of affected property owners or ratepayers protest the increase before the conclusion of a required public hearing, the City is prohibited by law from increasing water rates.

¿CÓMO PROTESTO CONTRA LOS AUMENTOS PROPUESTOS A LAS TARIFAS?

Tiene derecho a protestar contra los aumentos propuestos de tarifas. Cada protesta por escrito debe (1) indicar el nombre del propietario o contribuyente identificado; (2) proporcionar la ubicación de la propiedad identificada (por dirección o número de parcela del tasador); (3) incluir una firma original del propietario o contribuyente que la presenta.

Las protestas por escrito se pueden enviar por correo o presentar en persona durante la audiencia pública o antes de la conclusión de la audiencia pública el martes 2 de mayo de 2023 a: Oficina del Secretario de la Ciudad de Oxnard, (Oxnard City Clerk's Office), 300 West Third Street, 4th Floor, Oxnard, CA 93030

Solo se contabilizará una protesta escrita por propiedad afectada. No se aceptarán protestas por teléfono, correo electrónico o fax. Para su comodidad, puede elegir utilizar el formulario de protesta adjunto.

- ! **Las protestas por escrito deben ser recibidas por el Secretario de la Ciudad antes de la conclusión de la audiencia pública. El Secretario no aceptará ni considerará ninguna protesta recibida después de la conclusión de la audiencia pública.**

En la audiencia pública, el Consejo de la Ciudad aceptará y considerará todas las protestas escritas y escuchará todos los comentarios orales sobre los Cambios Propuestos. Los comentarios orales no se contabilizarán como protestas a menos que vayan acompañados de una protesta por escrito. Al finalizar la audiencia pública, el Consejo de la Ciudad considerará la adopción de los cambios propuestos de la siguiente manera: (1) Si menos de la mayoría de los propietarios o contribuyentes presentan una protesta, el Consejo de la Ciudad considerará aumentar las tarifas del agua, con efecto a partir del 1 de julio de 2023. (2) Si la mayoría de los propietarios o contribuyentes afectados protestan contra el aumento antes de que concluya la audiencia pública requerida, la ley le prohíbe al Ayuntamiento aumentar las tarifas del agua.



For more information, please refer to Oxnard Resolution No. 14,877 for Procedures for Establishing and Increasing Fees and Charges Under Proposition 218, available at **OxnardWater.org**.

Para más información, consulte la Resolución de Oxnard nº 14.877 sobre los procedimientos para establecer y aumentar las tasas y gravámenes en virtud de la Proposición 218, disponible en **OxnardWater.org**.



If you wish to use this form as your protest, please fill out and mail in a stamped envelope to:

Si desea utilizar este formulario como su protesta, por favor, complételo y envíelo por correo o preséntelo en persona a:

City Clerk, 300 West Third Street, Fourth Floor, Oxnard, CA 93030 or deliver to the Oxnard City Clerk by the conclusion of the public hearing.
o entréguelo al Secretario Municipal antes de la conclusión de la audiencia pública.

(Print your full name / *Escriba su nombre completo*)

I, _____, protest the proposed water rate increase.

Yo, _____, protesto contra la propuesta de aumento de tarifas de aguas.

I am the: ☐ Property Owner ☐ Ratepayer (Customer)
Soy el: Dueño de la propiedad Contribuyente (Cliente)

Property Address: _____
Dirección de la propiedad:

Assessor's Parcel Number (APN): _____ Signature: _____
Número de Parcela del Tasador (APN, por sus siglas en inglés): Firma



City Clerk's Office
300 W. Third Street, 4th Floor
Oxnard, CA 93030

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OXNARD, CA
PERMIT NO. 399

NOTICE OF PUBLIC HEARING NOTIFICACIÓN DE AUDIENCIA PÚBLICA

PROPOSED WATER RATE INCREASES

PROPUESTA DE AUMENTO DE LAS TARIFAS DEL AGUA

NOTICE OF PUBLIC HEARING NOTIFICACIÓN DE AUDIENCIA PÚBLICA

May 2, 2023 – 6:00 p.m. *2 de mayo de 2023 • 6 p.m.*

Oxnard City Council Chambers *Cámara del Consejo de la Ciudad de Oxnard*
305 West Third Street, Oxnard, CA 93030

www.oxnard.org/city-meetings/



Scan for City Council Meetings
Reuniones del Ayuntamiento

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO. 14,877

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD
ADOPTING PROCEDURES FOR ESTABLISHING AND INCREASING FEES AND
CHARGES UNDER PROPOSITION 218.

WHEREAS, Proposition 218 (Articles XIIC and XIID of the California Constitution) requires the City to comply with the substantive and procedural requirements set forth in section 6 of Article XIID of the California Constitution prior to imposing or increasing a fee or charge upon any parcel of property or upon any person as an incident of property ownership, including rates paid for water, wastewater and solid waste services; and

WHEREAS, Proposition 218 requires that the “record owner” of the parcel upon which the fee or charge is proposed for imposition or increase be notified of the amount of the fee or charge, the basis upon which the amount of the fee or charge was calculated, the reason for the fee or charge, and the date, time, and location of a public hearing on the fee or charge; and

WHEREAS, Proposition 218 requires that all protests against the fee or charge be considered at that public hearing; and

WHEREAS, Proposition 218 does not clearly set forth the meaning of “record owner” for purposes of the notice required by section 6 of Article XIID; and

WHEREAS, Proposition 218 does not clearly set forth who is allowed to submit protests, the procedure for submitting protests, or how the protests are to be tabulated; and

WHEREAS, the City Council wishes to set forth procedures for these two issues in this resolution which are intended to be consistent with both Proposition 218 and with the Proposition 218 Omnibus Implementation Act.

NOW, THEREFORE, the City Council of the City of Oxnard resolves that the following procedures shall be used when imposing or increasing a fee or charge subject to Article XIID of the California Constitution:

Section One. Fee or Charge. For the purposes of this resolution, “fee or charge” means any levy other than an ad valorem tax, a special tax, or an assessment, imposed by an agency upon a parcel or upon a person as an incident of property ownership, including a user fee or charge for a property-related service, and including rates paid for water, wastewater and solid waste services.

Section Two. Property-related Service. For purposes of this resolution, “property-related service” means a public service having a direct relationship to property ownership.

Section Three. Notice. Prior to imposing a fee or charge, each parcel upon which the fee or charge is proposed for imposition shall be identified. The City Clerk shall mail written notice at

least forty-five days prior to the date of the public hearing on the fee or charge to: (a) all owners whose names and addresses appear on the last equalized secured property tax assessment roll (as provided in Government Code § 53750(j)) at the address shown on the roll; and (b) all persons who have signed up to receive the service for which the fee or charge is imposed as reflected in the billing records of the City at the time the notice is given at the mailing address shown in the billing records of the City.

In addition to the persons identified in this section, the City Clerk shall also mail written notice to anyone who has submitted a request to receive notice of the imposition or increase of a fee or charge.

Section Four. Protest Procedure.

A. Any owners whose names and addresses appear on the last equalized secured property tax assessment roll and any persons who have signed up to receive the property-related service for which the fee or charge may submit a written protest against the proposed fee or charge at the noticed public hearing or to the City Clerk, 305 West Third Street, Oxnard, CA 93030. Protests submitted by e-mail and verbal protests will not be considered by the City Council to determine whether a majority of the owners of the identified parcels have submitted protests. All members of the public are entitled to make comments at the public hearing whether or not they choose to submit a written protest.

B. All written protests must be submitted before the conclusion of the noticed public hearing. The City Clerk shall not accept or consider any protest that is received after the conclusion of the public hearing even if postmarked prior to that time.

C. Written protests must identify the affected property (by assessor's parcel number of street address) and must include the original signature of the person submitting the protest. The person signing the protest shall identify him or herself as either the owner of the parcel as shown on the last equalized secured property tax assessment roll or as the person who signed up to receive the property-related service for which the fee or charge is imposed.

D. One written protest per parcel, submitted by the owner of the parcel whose name appears on the last equalized property tax assessment roll or submitted by the person who signed up to receive the property-related service for which the fee or charge is imposed, shall be counted. If either the owner of the parcel whose name appears on the last equalized property tax assessment roll or the person who signed up to receive the property-related service for which the fee or charge is imposed submits a written protest, that protest shall be included in the calculation of whether there is a majority protest against the fee or charge. If more than one person or entity owns the parcel, if one of the owners submits a written protest, that protest shall be included in the calculation of whether there is a majority protest against the fee or charge. Under all circumstances, only one protest per parcel shall be counted.

E. Any person who submits a written protest may withdraw it by submitting a written request that the protest be withdrawn in person at the public hearing or to the City Clerk, 305 West Third Street, Oxnard, CA 93030, before the conclusion of the public hearing. The written withdrawal

of a protest shall identify the parcel and the name of either the owner whose name appears on the last equalized secured property tax assessment roll or the person who signed up to receive the property-related service for which the fee or charge is imposed and include a request that the protest be withdrawn. The withdrawal of a protest shall only be valid if it is submitted by the same person who submitted the protest.

F. The City Clerk, upon determining that a written protest has been submitted, shall securely store the written protest until the conclusion of the public hearing. Prior to the tabulation of the written protests, neither the protest nor the envelope in which it is submitted will be treated as a public record, pursuant to Government Code section 6254(c) and any other applicable law, in order to prevent potential unwarranted invasions of the submitter's privacy and to protect the integrity of the protest process. After the written protests have been tabulated, they shall constitute "public records" as defined in Government Code section 6252.

Section 5. Tabulation of Written Protests. The following procedures are hereby adopted for calculating whether a majority protest against a fee or charge has been received:

A. The City Clerk shall determine the validity of all protests. The City Clerk shall not accept as valid any protest if the City Clerk determines any of the following:

i. The protest does not identify a parcel which receives the property-related service for which the fee or charge is imposed.

ii. The protest does not bear an original signature of the person submitting the protest who is the owner of the parcel or the person who signed up to receive the property-related service for which the fee or charge is imposed, or both.

iii. The protest does not state its opposition to the proposed fee or charge which is the subject of the protest proceeding.

iv. The protest was not received by the City Clerk before the close of the public hearing on the proposed fee or charge.

v. A request to withdraw the protest was received prior to the close of the public hearing on the proposed fee or charge.

B. The City Clerk's decision regarding the validity of a protest shall constitute a final action of the City and shall not be subject to appeal to the City Council or to any other board or employee of the City.

C. The City Clerk shall begin tabulating written protests within twenty-four business hours following the close of the public hearing. The City Manager may retain a private firm with demonstrated experience in tabulating written protests to assist the City Clerk. If, at the conclusion of the public hearing, cursory review of the protests received demonstrates that the number received is manifestly less than one-half of the parcels served by the City with respect to

the fee or charge which is the subject of the protest, then the City Clerk may advise the City Council of the absence of a majority protest without tabulating the protests.

D. A majority protest exists if, with respect to a majority of the parcels subject to the proposed fee or charge, written protests which comply with each of the requirements of this resolution are timely submitted and not withdrawn.

BE IT FURTHER RESOLVED, that this activity is not a project and therefore is not subject to the California Environmental Quality Act pursuant to CEQA Guidelines section 15060(c)(3).

PASSED AND ADOPTED THIS 10th day of December, 2015, by the following vote:

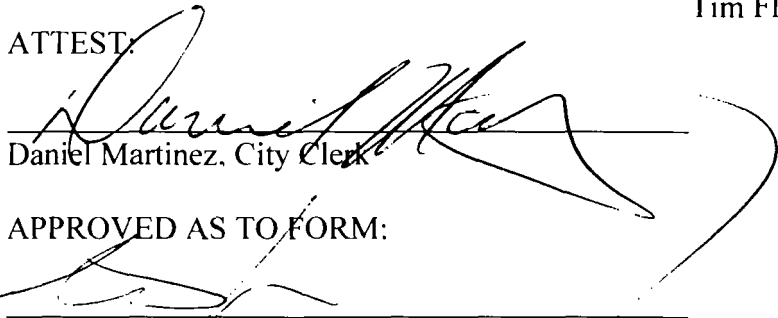
AYES: Councilmembers Flynn, Ramirez, MacDonald, Padilla and Perello.

NOES: None.

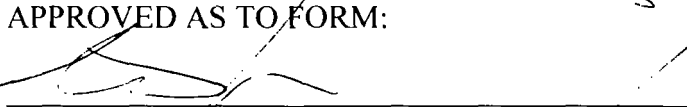
ABSENT: None.

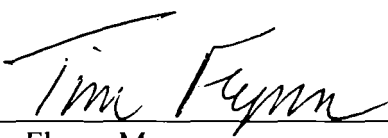
ABSTAIN: None.

ATTEST:


Daniel Martinez, City Clerk

APPROVED AS TO FORM:


Stephen M. Fischer, Interim City Attorney


Tim Flynn, Mayor

Scenario 2 - Moderate (50% CIP Funding and Meet Debt Coverage)

Fixed charges:

Line No.	Meter Size (A)	Current Rate (B)	July 1, 2023 (C)	July 1, 2024 (D)	July 1, 2025 (E)	July 1, 2026 (F)	July 1, 2027 (G)
1	5/8" or 3/4"	\$ 20.60	\$ 25.54	\$ 28.86	\$ 30.01	\$ 31.21	\$ 32.15
2	1"	32.14	38.13	43.09	44.81	46.60	48.00
3	1 1/2"	60.76	69.59	78.64	81.78	85.05	87.61
4	2"	95.25	107.34	121.29	126.15	131.19	135.13
5	3"	204.56	226.89	256.39	266.64	277.31	285.63
6	4"	348.18	384.18	434.12	451.49	469.55	483.63
7	6"	721.80	793.16	896.27	932.12	969.41	998.49
8	8"	1,037.83	1,139.21	1,287.31	1,338.80	1,392.35	1,434.12
9	10"	1,670.07	1,831.32	2,069.39	2,152.17	2,238.25	2,305.40

Line No.	Meter Size - Fire Lines (A)	Current Rate (B)	July 1, 2023 (C)	July 1, 2024 (D)	July 1, 2025 (E)	July 1, 2026 (F)	July 1, 2027 (G)
1	3/4"	\$ 3.66	\$ 4.78	\$ 5.40	\$ 5.62	\$ 5.84	\$ 6.02
2	1"	4.95	4.99	5.64	5.86	6.10	6.28
3	1.5"	8.13	5.77	6.52	6.78	7.05	7.26
4	2"	11.96	7.11	8.03	8.36	8.69	8.95
5	3"	24.10	11.92	13.47	14.01	14.57	15.01
6	4"	40.07	20.21	22.84	23.75	24.70	25.44
7	6"	81.59	49.99	56.49	58.75	61.10	62.93
8	8"	116.71	101.34	114.51	119.09	123.86	127.57
9	10"	186.98	178.59	201.81	209.88	218.27	224.82

Scenario 2 - Moderate (50% CIP Funding and Meet Debt Coverage)

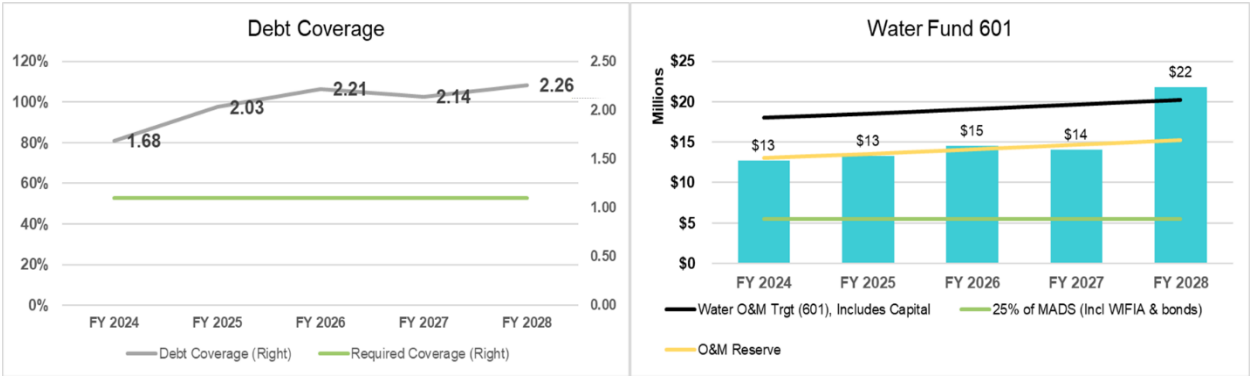
Variable Charges:

Line No.	Volumetric Rate		Current Rate	July 1, 2023	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027
	(A)	Tier Breakpoint	(B)	(C)	(D)	(E)	(F)	(G)
1	SFR							
2	Tier 1	0-9	\$ 3.31	\$ 4.73	\$ 5.34	\$ 5.56	\$ 5.78	\$ 5.95
3	Tier 2	>9-15	5.08	4.93	5.57	5.79	6.03	6.21
4	Tier 3	>15	6.05	5.25	5.93	6.17	6.42	6.61
5								
6	MFR							
7	Tier 1	0-8	3.53	4.73	5.34	5.56	5.78	5.95
8	Tier 2	>8	5.67	4.91	5.55	5.77	6.00	6.18
9								
10	Commercial <=2"							
11	Tier 1	0-62	3.22	4.78	5.40	5.62	5.84	6.02
12	Tier 2	>62	5.68	4.85	5.48	5.70	5.93	6.11
13	Commercial >=3"		4.47	5.15	5.82	6.05	6.29	6.48
14								
15	Industrial/City <=2"							
16	Tier 1	0-24	3.22	4.86	5.49	5.71	5.94	6.12
17	Tier 2	>24	5.68	5.12	5.79	6.02	6.26	6.45
18	Industrial >=3"		4.47	5.30	5.99	6.23	6.48	6.67
19	City >=3"		4.47	5.07	5.73	5.96	6.20	6.38
20								
21	Irrigation <=2"							
22	Tier 1	0-24	3.32	4.79	5.41	5.63	5.85	6.03
23	Tier 2	>24	5.91	5.06	5.72	5.95	6.18	6.37
24	Irrigation >=3"		5.08	5.14	5.81	6.04	6.28	6.47
25								
26	Oceanview Commercial							
27	Tier 1	0-9	3.31	\$5.27	5.96	6.19	6.44	6.63
28	Tier 2	>9-15	5.08	5.48	6.19	6.44	6.70	6.90
29	Tier 3	>15	6.05	5.23	5.91	6.15	6.39	6.58
30								
31	P&G		4.47	4.13	4.67	4.86	5.05	5.20
32	Construction		4.47	5.30	5.99	6.23	6.48	6.67

Note: Tier Breakpoints are listed in CCF (One CCF is equal to 748 gallons of water).

Scenario 2 - Moderate (50% CIP Funding and Meet Debt Coverage)

Debt Coverage and Reserves Table:



Scenario 3- Ultra-Aggressive CIP Funding and Meet Debt Coverage

Fixed charges:

Line No.	Meter Size (A)	Current Rate (B)	July 1, 2023 (C)	July 1, 2024 (D)	July 1, 2025 (E)	July 1, 2026 (F)	July 1, 2027 (G)
1	5/8" or 3/4"	\$ 20.60	\$ 31.56	\$ 35.35	\$ 37.12	\$ 37.86	\$ 38.62
2	1"	32.14	48.22	54.01	56.71	57.84	59.00
3	1 1/2"	60.76	89.87	100.65	105.69	107.80	109.96
4	2"	95.25	139.86	156.64	164.48	167.76	171.12
5	3"	204.56	298.14	333.92	350.61	357.62	364.78
6	4"	348.18	506.41	567.18	595.54	607.45	619.60
7	6"	721.80	1,047.91	1,173.66	1,232.34	1,256.99	1,282.13
8	8"	1,037.83	1,506.11	1,686.84	1,771.19	1,806.61	1,842.74
9	10"	1,670.07	2,422.50	2,713.20	2,848.86	2,905.84	2,963.95

Line No.	Meter Size - Fire Lines (A)	Current Rate (B)	July 1, 2023 (C)	July 1, 2024 (D)	July 1, 2025 (E)	July 1, 2026 (F)	July 1, 2027 (G)
1	3/4"	\$ 3.66	\$ 4.77	\$ 5.34	\$ 5.61	\$ 5.72	\$ 5.84
2	1"	4.95	5.07	5.68	5.96	6.08	6.20
3	1.5"	8.13	6.13	6.87	7.21	7.35	7.50
4	2"	11.96	7.96	8.92	9.36	9.55	9.74
5	3"	24.10	14.54	16.28	17.10	17.44	17.79
6	4"	40.07	25.88	28.99	30.43	31.04	31.66
7	6"	81.59	66.58	74.57	78.30	79.86	81.46
8	8"	116.71	136.79	153.20	160.87	164.08	167.36
9	10"	186.98	242.39	271.48	285.05	290.75	296.57

Scenario 3- Ultra-Aggressive CIP Funding and Meet Debt Coverage

Variable Charges:

Line No.	Volumetric Rate		Current Rate	July 1, 2023	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027
	(A)	Tier Breakpoint	(B)	(C)	(D)	(E)	(F)	(G)
1	SFR							
2	Tier 1	0-9	\$ 3.31	\$ 5.41	\$ 6.06	\$ 6.36	\$ 6.49	\$ 6.62
3	Tier 2	>9-15	5.08	5.69	6.37	6.69	6.83	6.96
4	Tier 3	>15	6.05	6.13	6.87	7.21	7.35	7.50
5								
6	MFR							
7	Tier 1	0-8	3.53	5.40	6.05	6.35	6.48	6.61
8	Tier 2	>8	5.67	5.66	6.34	6.66	6.79	6.93
9								
10	Commercial <=2"							
11	Tier 1	0-62	3.22	5.48	6.14	6.44	6.57	6.70
12	Tier 2	>62	5.68	5.58	6.25	6.56	6.69	6.83
13	Commercial >=3"		4.47	5.99	6.71	7.04	7.19	7.33
14								
15	Industrial/City <=2"							
16	Tier 1	0-24	3.22	5.59	6.26	6.57	6.71	6.84
17	Tier 2	>24	5.68	5.95	6.66	7.00	7.14	7.28
18	Industrial >=3"		4.47	6.19	6.93	7.28	7.43	7.57
19	City >=3"		4.47	5.87	6.57	6.90	7.04	7.18
20								
21	Irrigation <=2"							
22	Tier 1	0-24	3.32	5.49	6.15	6.46	6.59	6.72
23	Tier 2	>24	5.91	5.86	6.56	6.89	7.03	7.17
24	Irrigation >=3"		5.08	5.98	6.70	7.03	7.17	7.32
25								
26	Oceanview Commercial							
27	Tier 1	0-9	3.31	\$6.16	6.90	7.24	7.39	7.54
28	Tier 2	>9-15	5.08	6.44	7.21	7.57	7.72	7.88
29	Tier 3	>15	6.05	6.10	6.83	7.17	7.32	7.46
30								
31	P&G		4.47	4.07	4.56	4.79	4.88	4.98
32	Construction		4.47	6.19	6.93	7.28	7.43	7.57

Note: Tier Breakpoints are listed in CCF (One CCF is equal to 748 gallons of water).

Scenario 3- (Ultra-Aggressive CIP Funding and Meet Debt Coverage)

Debt Coverage and Reserves Table:



Public Hearing on Proposed Water Rate Increases and Introduction of an Ordinance Establishing New Water Rates,

City Council Meeting
May 2, 2023

Joseph Marcinko
Assistant Director of Public Works
Water Utilities

That the City Council:

1. Hold a public hearing to receive public testimony and consider all protests concerning the adoption of an ordinance establishing water system user fees and charges; and
2. Find that the California Environmental Quality Act (CEQA) does not apply, to the ordinance that modifies the City's water rates; and
3. Approve the introduction and first reading of the ordinance establishing rates, fees and charges for the use of and services relating to the City's water services.



Approximately **85%** of service customers are single and multi-family residential.



More than **43,000** customers receive potable water services.



Water Supply

- ✓ Surface water and groundwater
- ✓ 40-50% of the entire water budget



Operating & Maintenance Expenses

- ✓ 10 groundwater wells
- ✓ 5,700 fire hydrants
- ✓ 6 blending stations
- ✓ Staff of 70



Infrastructure Investments including CIP

- ✓ 43,000 water meters
- ✓ 1 Desalter
- ✓ Over 500 miles of water pipelines



Water Monitoring, Testing, Compliance

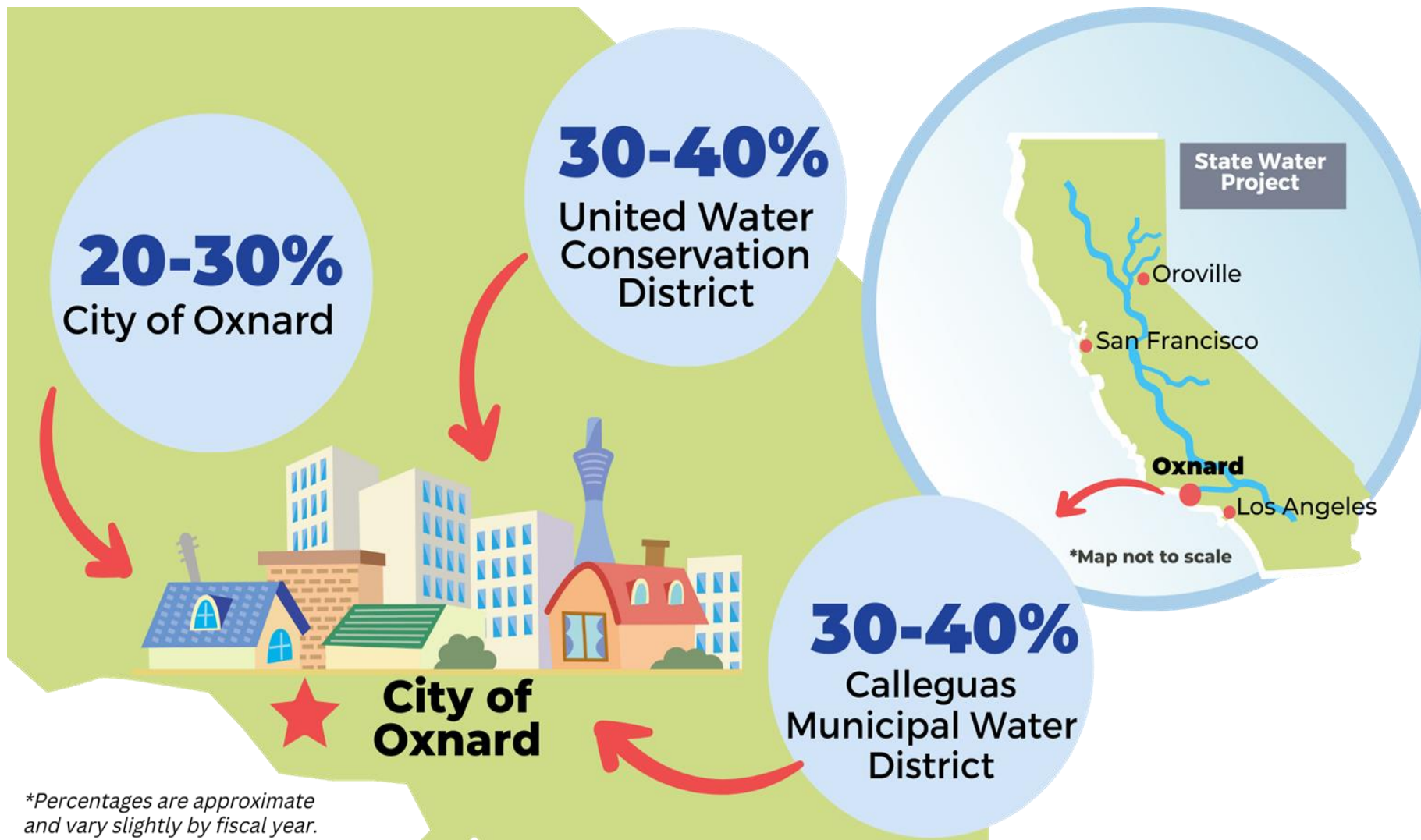
- ✓ 3,700 tests per year
- ✓ 300 types of analyses



Financial: Debt Coverage, Reserves

- ✓ 1.10 debt coverage ratio
- ✓ 25% reserves (Resolution 15595)

*Numbers are approximate and may vary slightly



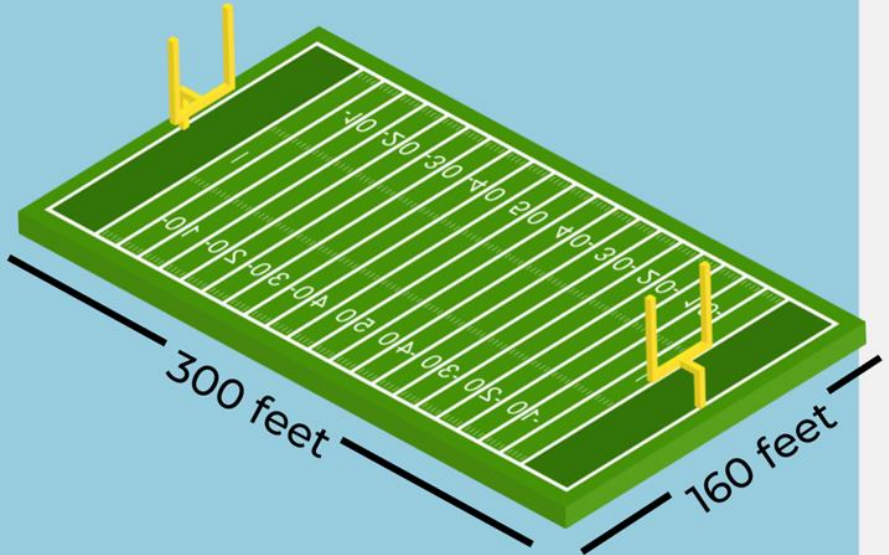
1 Acre-Foot of Water is approx. 1 Football Field

325,851 gallons of
water = 1 acre-foot

272 feet

160 feet

1 foot deep



300 feet

160 feet



The total usage of water in Oxnard for FY 21-22 was 26,102 acre-feet

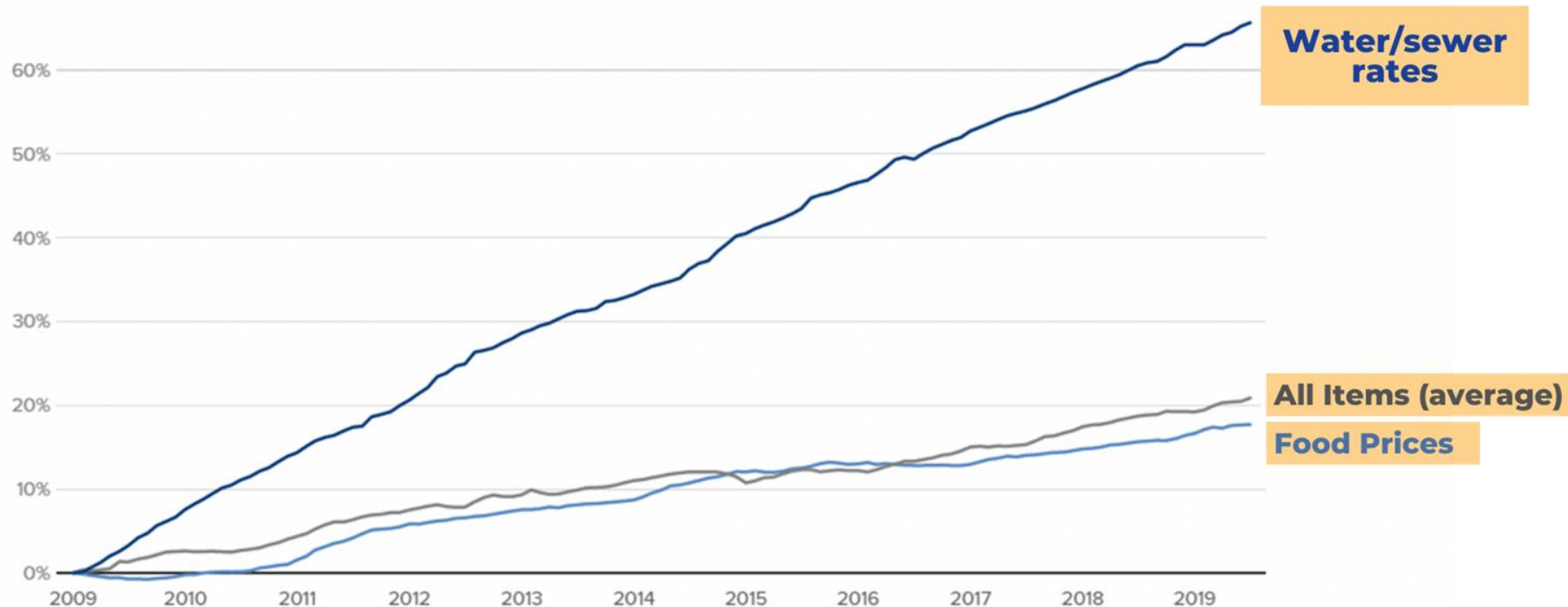
- Routine review of rates is good management practice (Usually 5 year cycles)
- Most recent Rate Study was conducted in 2017
- August 2022: Raftelis began cost of service and water rate study

Challenges facing the City's water utility:

- Climate Change
- Aging Infrastructure
- Global Supply Chain Issues
- Rising Equipment/Supply Costs
- Rising Cost of Imported Water

Increases 2009-2020

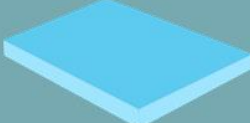
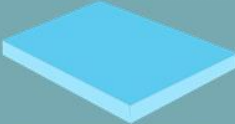
What consumers pay for water and sewer service has increased much faster than inflation or the price of food.



Source: U.S. Bureau of Labor Statistics-Consumer Price Index

SAMPLE PRODUCT COST INCREASE

10

2017 AVERAGE COST	SAMPLE ITEM:	2022 AVERAGE COST
\$1.00	 NATURAL GAS (per therm)	\$1.66 ↑66%
\$0.12	 ELECTRICITY (per kWh)	\$0.15 ↑22%
\$27,600	 FORD F-150 TRUCK	\$33,695 ↑22%
\$1,300 per acre-foot	 IMPORTED WATER	\$1,561 per acre-foot ↑20%
\$522.50 per acre-foot	 GROUNDWATER FROM UNITED	\$560.16 per acre-foot ↑7%

Sources: U.S. Bureau of Labor Statistics-Consumer Price Index; So Cal. Edison-Rates

Operational and Functional Costs:

1. Purchase costs of various water supplies (40-50%)
2. Important operation and maintenance expenses
3. Capital Improvement Program (CIP) projects and costs
4. Debt service on bonds issued for system improvements
5. Water monitoring, testing, and compliance
6. Operating Reserves

AUDITS

Conduct annual water loss audits



BUDGET VS. EXPENSES

Review budget and expenses on a quarterly basis



BIDS

Use lowest qualified bid to obtain the lowest costs for materials and contracted services



SO. CAL. EDISON

Work with SCE for utilizing the lowest available electricity rates



GRANTS

Apply for grants to reduce high capital costs



MONITOR

Closely monitor water allocations to avoid incurring expensive penalties



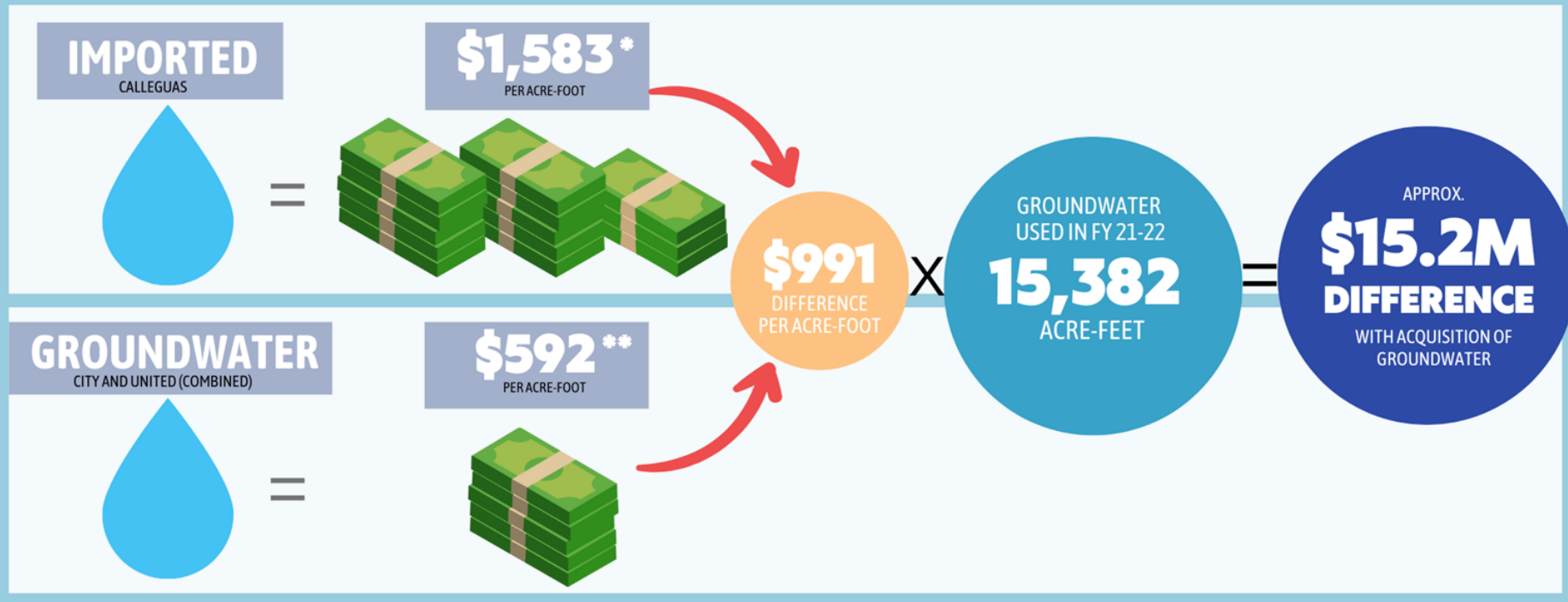
WATER METERS

Replace old inaccurate meters to ensure accurate water measurements



ENSURE OUR WATER ACQUISITION COSTS ARE THE LOWEST POSSIBLE

IN FY 21-22:



*Both variable and fixed components

**Excludes City operating costs

1 COVER OPERATIONS & MAINTENANCE



2



COVER INFRASTRUCTURE INVESTMENTS

3



LEGALLY COMPLIANT

PROMOTE FINANCIAL VIABILITY



4



COMMUNITY VALUES

5

FAIRNESS & EQUITY



6



Rate Study Period

Recommendation: 5 year period



Pass Through Charge

Recommendation: Include a pass-through option to avoid over/under estimating factors outside the City's control



Drought Rate

Recommendation: Include drought rates in the Prop. 218 proceedings



Capital Improvement Program (CIP)

Allows for CIP projects at a rate within existing resources



Reserve Fund Balance Budget

Recommendation: Aim to maintain 25% reserves



Debt Coverage Ratio

Recommendation: Maintain a minimum of 1.10



Water Delivery Costs

City of Oxnard's cumulative water rate adjustments:

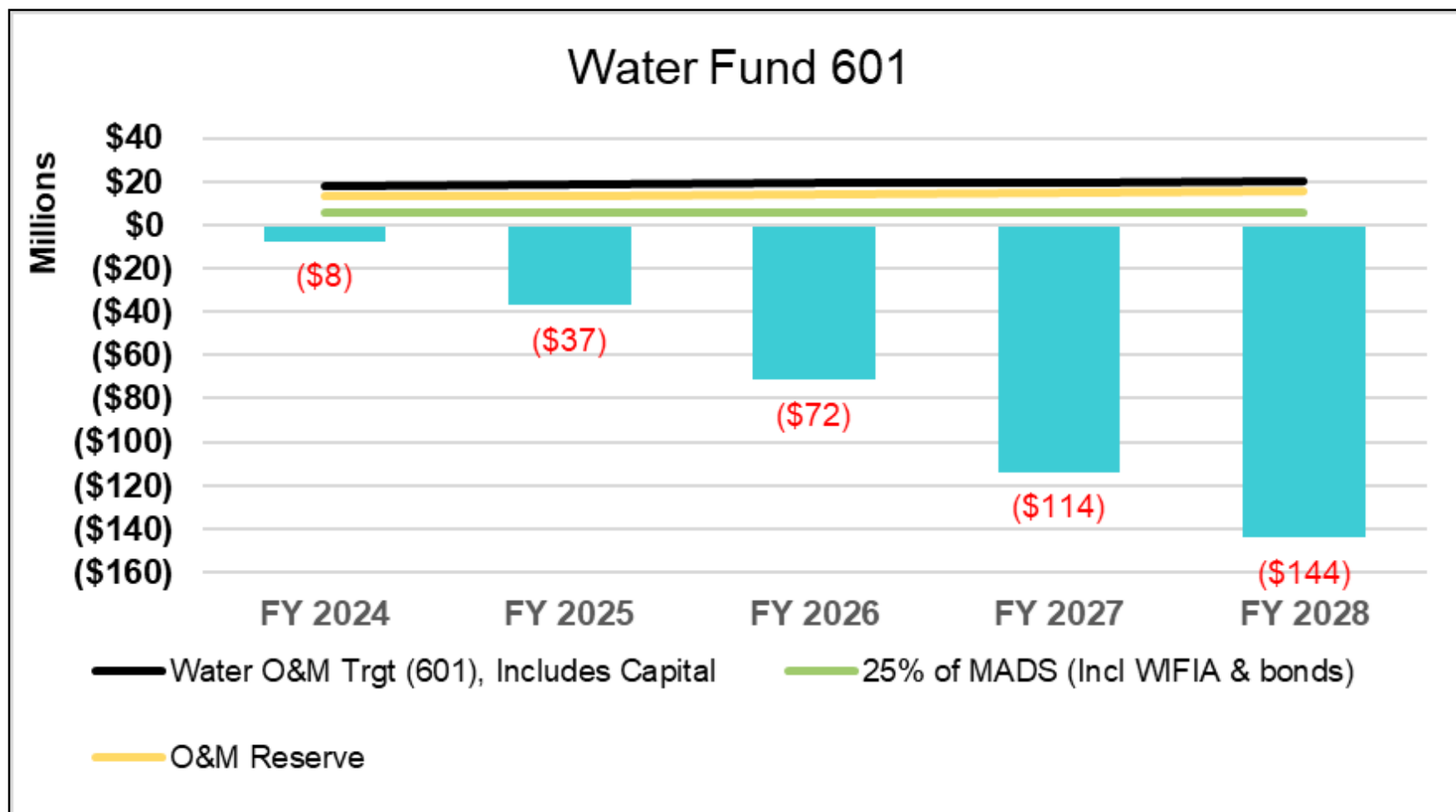
Fiscal Year	FY 12/13	FY 13/14	FY 14/15	FY 15/16	FY 16/17	FY 17/18	FY 18/19	FY 19/20	FY 20/21	FY 21/22
Approved water rate adjustment	4.4%	0%	0%	0%	0%	14.0%	0%	0%	0%	-3.4%*
Water pass-through adjustment	1.4%	2.3%	0%	0%	7.0%	1.9%	0%	0%	0%	0%

*Reduction due to removal of Infrastructure-Use Fees (IUF).

In September 2021, the City **reduced** its water rates by **3.4%** due to the removal of the Infrastructure Use Fees (IUF).



Based on **current rates**, a single family residence in Oxnard with a 3/4" meter using average 9 hundred-cubic-feet of water will pay a monthly water bill of **\$50.39**.



PROPOSED RATE CHANGE OVERVIEW - FIXED CHARGES

18

Line	Meter Size	Current Rate	July 1, 2023	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027
1	5/8" or 3/4"	\$20.60	\$22.78	\$24.94	\$26.19	\$27.50	\$28.87
2	1"	\$32.14	\$33.47	\$36.65	\$38.48	\$40.41	\$42.43
3	1 1/2"	\$60.76	\$60.20	\$65.92	\$69.21	\$72.68	\$76.31
4	2"	\$95.25	\$92.27	\$101.04	\$106.09	\$111.39	\$116.96
5	3"	\$204.56	\$193.84	\$212.25	\$222.87	\$234.01	\$245.71
6	4"	\$348.18	\$327.49	\$358.60	\$376.53	\$395.36	\$415.13
7	6"	\$721.80	\$674.96	\$739.08	\$776.04	\$814.84	\$855.58
8	8"	\$1,037.83	\$968.98	\$1,061.03	\$1,114.08	\$1,169.79	\$1,228.28
9	10"	\$1,670.07	\$1,557.02	\$1,704.94	\$1,790.18	\$1,879.69	\$1,973.68
10	10" - P&G		\$579.29	\$634.33	\$666.04	\$699.35	\$734.31

PROPOSED RATE CHANGE OVERVIEW - VOLUMETRIC RATES

19

Line	Volumetric Rate	Tier Breakpoint	Current Rate	July 1, 2023	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027
1	SFR							
2	Tier 1	0-9	\$3.31	\$4.43	\$4.85	\$5.09	\$5.35	\$5.62
3	Tier 2	>9-15	\$5.08	\$4.59	\$5.03	\$5.28	\$5.54	\$5.82
4	Tier 3	>15	\$6.05	\$4.85	\$5.31	\$5.58	\$5.86	\$6.15
5								
6	MFR							
7	Tier 1	0-8	\$3.53	\$4.42	\$4.84	\$5.08	\$5.34	\$5.60
8	Tier 2	>8	\$5.67	\$4.58	\$5.02	\$5.27	\$5.53	\$5.81
9								
10	Commercial <=2"							
11	Tier 1	0-62	\$3.22	\$4.47	\$4.89	\$5.14	\$5.40	\$5.67
12	Tier 2	>62	\$5.68	\$4.53	\$4.96	\$5.21	\$5.47	\$5.74
13	Commercial >=3"		\$4.47	\$4.77	\$5.22	\$5.48	\$5.76	\$6.05
14								
15	Industrial/City <=2"							
16	Tier 1	0-24	\$3.22	\$4.53	\$4.96	\$5.21	\$5.47	\$5.74
17	Tier 2	>24	\$5.68	\$4.75	\$5.20	\$5.46	\$5.73	\$6.02
18	Industrial >=3"		\$4.47	\$4.89	\$5.35	\$5.62	\$5.90	\$6.20
19	City >=3"		\$4.47	\$4.70	\$5.15	\$5.40	\$5.67	\$5.96
20								
21	Irrigation <=2"							
22	Tier 1	0-24	\$3.32	\$4.47	\$4.89	\$5.14	\$5.40	\$5.67
23	Tier 2	>24	\$5.91	\$4.69	\$5.14	\$5.39	\$5.66	\$5.95
24	Irrigation >=3"		\$5.08	\$4.76	\$5.21	\$5.47	\$5.75	\$6.03
25								
26	Oceanview Commercial							
27	Tier 1	0-9	\$3.31	\$4.87	\$5.33	\$5.60	\$5.88	\$6.17
28	Tier 2	>9-15	\$5.08	\$5.04	\$5.52	\$5.79	\$6.08	\$6.39
29	Tier 3	>15	\$6.05	\$4.84	\$5.30	\$5.56	\$5.84	\$6.14
30								
31	P&G		\$4.47	\$4.18	\$4.57	\$4.80	\$5.04	\$5.29
32	Construction		\$4.47	\$4.89	\$5.35	\$5.62	\$5.90	\$6.20

SAMPLE BILL WITH PROPOSED RATE CHANGE

20

Line	Customer Class	Current Bill	Proposed Bill	\$ Change	% Change
1	Single Family Residential	\$50.39	\$62.65	\$12.26	24.3%
2	Multifamily Residential	\$91.41	\$108.77	\$17.36	19.0%
3	Commercial <=2"	\$131.34	\$183.70	\$52.36	39.9%
4	Commercial >=3"	\$2,008.19	\$2,182.93	\$174.74	8.7%
5	Industrial/City <=2"	\$165.90	\$232.34	\$66.44	40.0%
6	Industrial >=3"	\$7,231.34	\$7,970.56	\$739.22	10.2%
7	City >=3"	\$966.68	\$1,058.64	\$91.96	9.5%
8	Irrigation <=2"	\$295.11	\$316.80	\$21.69	7.4%
9	Irrigation >=3"	\$2,445.44	\$2,350.12	-\$95.32	-3.9%
10	Oceanview Commercial	\$30.53	\$37.39	\$6.86	22.5%
11	P&G	\$273,445	\$254,968	-\$18,477	-6.8%
12	Construction	\$1,827	\$1,930	\$103	5.6%

- During droughts, customers conserve water
- Water conservation results in reduced consumption
- There is a corresponding reduction in expenditures
- The reduced consumption impacts revenues
- Operational costs remain relatively constant
- Drought rates ensure revenue covers remaining costs
- City Council can implement drought rates

Note:

- Drought Rate values in the proposed Ordinance/COS are lower than the values in the Prop 218 notice
- Approval of lower amounts than what is in the notice is allowed
- Staff recommends the lower values noted in the Ordinance and COS

Drought stage ->	1	2	3	4	5	6
Drought reduction in use	up to 10%	up to 20%	up to 30%	up to 40%	up to 50%	up to 60%
% Increase on Volumetric Rate	3.9%	9.4%	15.4%	26.2%	35.3%	58.7%

1

CA. Low Income Household Water Assistance Program (LIWAP)

For income-eligible
wastewater and
water customers



One-time bill payment
up to \$2,000 to help
customers pay their past
due water and
wastewater account

2

Project Assist

For income-eligible
solid waste,
wastewater and
water customers



\$15 per month
discount on utility bill



- a. Cannot collect revenue beyond what is necessary to provide service.
- b. Revenues derived by the charge shall not be used for any other purpose.
- c. The fee may not exceed the proportional cost of service for the parcel.
- d. No charge may be imposed for a service unless that service is actually used or immediately available to the owner of the property.
- e. A written notice of the proposed charge shall be mailed to the record owner of each parcel at least 45 days prior to the public hearing when the agency considers all written protests against the charge.

- Proceedings for new water rates followed the Proposition 218 requirements as set in Resolution 14,877
- Proposition 218 notices were mailed to parcel owners and water service account holders
- There are 43,859 served parcels in the City of Oxnard
- If the number of protests received up to the closure of the May 2, 2023 public hearing are $< 21,930$, the Council may consider a rate increase
- If the number of protests received up to the closure of the May 2, 2023 public hearing are 21,930 or more, proceedings will cease

- Improve the water system's financial performance
- Reduce the possibility of future bond rating downgrades
- Provide revenue that will
 - Meet the debt coverage ratio
 - Sustain critical operations and maintenance
 - Fund capital expenditures
- Absent an increase in rates
 - Significant decreases to the water operations
 - Deferring of maintenance items
 - Ceasing critical capital projects will need to be considered

Questions



CITY COUNCIL AGENDA REPORT

PUBLIC HEARINGS AGENDA ITEM NO. K.2

DATE: May 2, 2023

TO: City Council

FROM: Maureen Tamuri, Interim Community Development Director, (805) 385-7882, maureen.tamuri@oxnard.org

SUBJECT: Project Del Sol High School Street Naming; Planning and Zoning (PZ) Permit No. 22-650-01 (Street Name Change); Located near the northeast corner of Rose Avenue and Camino Del Sol. (20 minutes)

RECOMMENDATION

That the City Council:

1. Conduct a public hearing; and
2. Find the project Exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3); and
3. Adopt a Resolution approving the request to name the currently unnamed streets Jaguar Way and Jacinto Drive.

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/rEPDXxp8lz8>

BACKGROUND

The Oxnard Union High School District ("District") is currently constructing a new high school (Del Sol High School) which will consist of approximately 280,000 square feet (sq. ft.) of building structures and a variety of recreational facilities, approximately 720 parking spaces, landscaping, and associated infrastructure on the 52.52-acre project site located near the northeast corner of Rose Avenue and Camino Del Sol ("Site"). Access to the school will be provided from Camino Del Sol and a newly constructed extension of Jacinto Drive to the north of the project Site that will connect to Rose Avenue to the west and the existing termination of Jacinto Drive to the east.

The Del Sol High School property is part of the City's East Village Neighborhood and is within the Northeast Community Specific Plan (the "NECSP"). The School site is part of a 107-acre property which has been historically referred to as the Maulhardt Property (in reference to the original land owners) or East Village, Phase III (herein "East Village"). The property was farmed with row crops for many years, and currently consists of fallow land and a historic residence, in addition to the new Del Sol High School that is under construction.

While the school construction and site plan is approved by the state, the local jurisdiction (City of Oxnard) is responsible for the review and approval of all traffic and pedestrian related improvements, and all utilities which connect to City infrastructure. To date, City staff has reviewed all improvement plans and issued permits for all of the required off-site infrastructure. The construction of the high school and the off-site infrastructure has been progressing since 2021.

ANALYSIS AND DISCUSSION:

On January 13, 2023, the Street Naming Committee reviewed and recommended approval of a request to name two new streets being constructed as part of the Del Sol High School project. Newly proposed street names must consider and

meet the street naming policies as provided by City Council Resolution No. 13,448. The street name considers policies such as the name length, the established alphabetical City grid system, and spelling and pronunciation conflicts with similar or existing City named streets. Resolution No. 13,448 establishes thematic street name quadrants throughout the City. The system is intended to lend identity and character to various areas of the City. This system is also intended to aid residents of Oxnard, visitors, delivery services, and City departments in locating streets efficiently. Street names are typically approved as part of a final map approval. However, the subject streets were created as part of the Del Sol High School Project and as a school project they were not required to process a map. In this case, City Council action via a resolution of approval will officially name the two subject streets.

Both of these streets are located within the Northeast Quadrant which establishes that streets shall be assigned Spanish language names. The proposed names would both be consistent with the Northeast Quadrant theme. The first street is a new street that will run along the east side of the new high school, between Rose Avenue (West) and Festivo Street (East). The proposed name is “Jaguar Way”, consistent with the school's proposed mascot. This is similar to Raiders Way, in front of Channel Islands High School. While this name is not consistent with the alphabetical grid system, the street naming committee was supportive of the proposed name, as the street would only directly serve Del Sol High School. Also, the area adjacent to the street is builtout, so it is unlikely that any other development would take direct access from the new street. Pursuant to City Council Resolution No. 13,448, exceptions can be made to the street naming policies if the public interest is served. As this would support the identity of the new high school in the community, the Street Naming committee found it would serve the public interest.

The second street will run along the north side of the high school connecting the existing Jacinto Drive to Rose Avenue. This road is proposed to be named “Jacinto Drive”. The naming of the northern road “Jacinto Drive” would be consistent with the alphabetical grid system and would provide for continuity. West of Rose Avenue the street name would change to Camino De La Luna, however the street naming committee found that it was more appropriate to have the name change occur at the major intersection. Currently, this new street would only provide access to the Del Sol High School. However, the new street may provide street access to the remaining portion of the Maulhardt property to the north, should it be developed in the future.

ENVIRONMENTAL REVIEW

Pursuant to California Environmental Quality Act (Public Resources Code Sections 21000 et seq., “CEQA”) and the regulations promulgated thereunder (14 California Code of Regulations Sections 15000 et seq., the “CEQA Guidelines”), it can be seen with certainty that there is no possibility that the proposed naming of these new roads would have a significant effect on the environment (CEQA Guidelines Section 15061(b)(3)), and staff recommends that the City Council accept a Notice of Exemption as part of the determination and the adoption of a resolution by the City Council.

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 project would not have a fiscal impact on the City. The signs for the proposed streets will be provided by Del Sol High School as part of the street improvements.

COMMITTEE OUTCOME

This was reviewed by the Street Naming Committee in accordance with City Council Resolution No. 13,448. Therefore, this item did not originate in Committee.

Prepared by: Joe Pearson II, AICP, Planning & Environmental Services Manager

ATTACHMENTS

1. Street Naming Location Exhibit
2. City Council Resolution 13,448
3. Draft City Council Resolution and Exhibit A- Street Naming Exhibit

4. Street Naming CC Presentation

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO. 13,448

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD REVISING THE POLICY AND PROCEDURES FOR STREET NAMING.

WHEREAS, the City Council previously adopted policies and procedures for systematic street naming for public and private streets in the City of Oxnard; and

WHEREAS, these policies and procedures have not been updated since 1987; and

WHEREAS, revising the City's policies on a regular basis is necessary to streamline the development process and respond to changing circumstances in the City, and

WHEREAS, such policy and procedures are not a project for the purposes of the California Environmental Quality Act.

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

That City Council Resolution No. 9311 concerning street name policies is hereby repealed; and the following policies and procedures are hereby adopted for implementation:

CITY OF OXNARD

STREET NAMING COMMITTEE POLICIES

1. *Applicability.* The names of all new public and private streets and the renaming of existing streets in the City shall be consistent with the criteria set forth within this resolution.
2. *Objective.* The overall objective in naming and renaming streets shall be to establish street names within a logical system; with names that are pleasant sounding, easy to spell and pronounce, not confusing; and to provide or maintain an area's character.
3. *General Street Naming Policies.*
 - a. *Type of Name.* A street name shall be able to stand alone, if possible, for ease in alphabetizing and indexing, and not require Plaza de la XXX, Camino XXX, Vista XXX, etc., to make sense.
 - b. *Street Name Type and Length.* Street names shall be chosen which are appropriate for the type and length of the street. For example, a very short street should have a short name to fit on small-scale maps, and a busy thoroughfare should not have a name that would be more appropriate for a rural lane. A street name shall be able to fit in directories without excessive abbreviations.
 - c. *Alphabetical Grid.* New street names and renamed streets shall be assigned alphabetically. This alphabetical system aids residents of Oxnard, visitors, delivery

services, and City departments in locating streets within the City rapidly and efficiently. This system is particularly important for fire and police emergencies. The City shall use the Alphabetic Grid Map maintained by the Planning Division when naming and renaming streets. Such grid map shall be retained for inspection by the Street Naming Committee chair, and updated as necessary by the Geographic Information Systems division staff, as directed by the Street Naming Committee chair.

- d. **Spelling and Pronunciation.** Street names shall be easy to spell and easy to pronounce. This is especially important in an emergency and in residential areas, where children are likely to need assistance.
- e. **Spelling.** Spelling shall be standard American spelling, except for street names in the Northeast community, which shall use standard Spanish spelling. Spelling shall be verified with the proper sources.
- f. **Duplication.** Duplication shall not be permitted within the City limits or in adjacent communities. Similar sounding names shall be considered duplications. Proposed street names shall be checked against a Ventura County street atlas and the City's recent street naming records before proposal to the City Council.
- g. **Unacceptable names include:**
 - (1) New numerical names (except for extensions of existing streets)
 - (2) New letter names (except for extensions of existing streets)
 - (3) Directional names (such as North Street)
 - (4) Unconventionally spelled names
- 4. ***Street Name Suffixes.*** Street name suffixes shall be substantially descriptive of the street's physical configuration and length. The suffix shall follow the street name (example: Calico Street, not Calle Calico).

The following criteria shall be used for street suffixes:

Street Type	Suffix
Thoroughfare, collector	Boulevard, Parkway, Road, Avenue, or Drive
Local, neighborhood streets	Place, Drive, or Street
Winding or curvilinear streets	Lane, Trail, Way, Loop, or Walk
Cul-de-sac streets	Court, Circle, Square and other suffixes as appropriate

The Street Naming Committee may consider other suffixes that do not conform to these policies.

5. *Cul-de-Sac Policies*

- a. Cul-de-sac policies shall apply to paddle, hammerhead and other shapes used for cul-de-sac streets.

- b. A cul-de-sac with three lots or less, or less than 100 feet in length (measured from street center to cul-de-sac center) shall retain the main street name, but have a suffix of court, circle, or other suffix describing a cul-de-sac.
 - c. A cul-de-sac with four lots or more, or at least 100 feet long, or a series of cul-de-sac streets off the same street, shall have separate names from the main street and a suffix consistent with the policies herein.
 - d. A cul-de-sac that extends an existing street will retain the main street's name, suffix, and numbering system.
6. *Street Name Continuity.* The policy of the City is to continue main street names as far as is practical within a quadrant and within the City. To qualify for name continuation, the street must be physically continuous with, and have the same general directional orientation as an existing street. The practice of allowing discontinuous streets with the same street name has led to confusion, threats to public safety, and excessive personnel costs for emergency responses, as in the case of two fire engine companies or police units being dispatched down physically separate streets with the same name in order to respond to an emergency. Street addresses are not always a completely effective indicator for property location on discontinuous streets.
7. *Thematic Street Name Quadrants.* New streets and renamed streets within a quadrant shall be assigned names selected from the appropriate category below, as shown in Exhibit "A." The objective is to provide street names that fit into categories to aid in finding a particular street. The themes help identify the general location of a street within the city, which assists emergency personnel, delivery persons and others within the City. The system is intended to lend identity and character to various areas of the City, and in the case of residential areas, add to the pride of home ownership and neighborhood location.
- a. Del Norte Quadrant
 - (1) Boundaries. The boundaries shall be U. S. Highway 101 on the south, the Santa Clara River on the west, Los Angeles Avenue on the north, and the Oxnard City limits on the east.
 - (2) Theme. Streets within the Del Norte Quadrant shall be assigned geographic place names (such as cities, countries, rivers, valleys, mountains, lakes, parks.).
 - b. Northeast Quadrant
 - (1) Boundaries. The boundaries shall be East Fifth Street on the south, Oxnard Boulevard on the west, U. S. Highway 101 on the north and the City limits on the east.
 - (2) Theme. Streets within the Northeast Quadrant shall be assigned Spanish language names, excluding those properly classified in the other quadrants.

c. Southeast Quadrant

- (1) Boundaries. The boundaries shall be the Pacific Ocean on the south, Saviers Road (and its proposed extension southward to the Pacific Ocean) on the west, East Fifth Street on the north, and the City limits to the east.
- (2) Theme. Streets within the Southeast Quadrant shall be assigned names of notable or historically significant people, including locally famous people, historic pioneer families and explorers.

d. Southwest Quadrant

- (1) Boundaries. The boundaries shall be the Pacific Ocean, City of Port Hueneme, and County of Ventura boundaries on the south; the Pacific Ocean on the west; West Fifth Street to the Edison Canal on the north, and the Edison Canal; Saviers Road and Oxnard Boulevard on the east.
- (2) Theme. Streets within the Southwest Quadrant shall be assigned names related to nautical terms, coastal resorts, islands, ocean-related activities, marine animals, marine plants, and port names.

e. Northwest Quadrant

- (1) Boundaries. The boundaries shall be West Fifth Street on the south (except the area south and west of the Edison Canal), the Pacific Ocean and the Edison Canal on the west, the Santa Clara River and U. S. Highway 101 on the north, and Oxnard Boulevard on the east.
- (2) Theme. Streets within the Northwest Quadrant shall be assigned natural and physical science names, including birds, animals, butterflies, flowers, plants, minerals, and other names related to the natural and physical environment, excluding trees (since many existing streets in the southwest community are named after trees). Other topics within physical science include geology, meteorology, physics, and astronomy.

f. Master-Planned Developments

- (1) Boundaries. The boundaries shall be defined by a specific plan, development plan or planned unit development.
- (2) Theme. Use of a subtheme within a master planned development is encouraged, provided the subtheme substantially relates to the theme of the quadrant within which the development is located.

g. Industrial Streets. Streets in industrial areas shall be assigned names related to high technology, industrial processes, computers, space exploration, inventions, and inventors.

- h. Subthemes. Subthemes are encouraged for streets within a development in a quadrant, provided the subtheme relates to some element of the quadrant's theme (e.g., a beach resort subtheme for nautical terms and ports).
8. *Procedure for Naming New Streets.* All new public and private streets shall be named concurrently with City Council consideration of a tentative subdivision map or tentative parcel map creating a new street or street segment.

The procedure for naming new streets shall be as follows:

- a. Planning Division staff shall submit the tentative subdivision map to the Street Naming Committee prior to Development Advisory Committee consideration of the map.
- b. The Street Naming Committee chair ("chair") shall inform the applicant of the thematic quadrant within which the subdivision is located, the initial letters with which the street names must begin, and the street name suffixes that may be used. The chair shall request the applicant submit three street names for each street, applying the street naming criteria as specified herein.
- c. After the applicant responds to the request for preferred street names, the Street Naming Committee ("committee") shall review the proposed street names for consistency with the street naming policies. If the applicant does not submit street names within the requested period, the committee shall propose street names consistent with the street naming policies herein.

If the names submitted by the applicant do not conform to the street naming policies, the committee shall propose alternate street names in accordance with this resolution.

- d. The chair shall submit the selected street names to the applicant and City Council for consideration with the tentative subdivision or parcel map.
 - e. City Council Review of Proposed Street Names. The City Council shall act upon the proposed street names concurrent with approval of the tentative subdivision or parcel map. If the applicant believes that the street names proposed by the committee are not satisfactory, the applicant may request that the City Council disapprove the recommendation of the committee by submitting an appeal letter to the City Council, for consideration at the public hearing on the tentative subdivision map. The applicant's letter shall be submitted with the required filing fee and other materials required by the Planning Manager, and shall indicate specifically why the applicant does not find the proposed names appropriate, a list of alternate names, why the City Council should choose the alternate names, and how the applicant's preferred names meet the policies herein. In considering the appeal, the City Council is required to make a finding that the applicant's proposed street names could not be detrimental to the health, safety, and welfare of the street's residents, occupants, or visitors.
9. *Street Renaming.* The policy of the City Council is to maintain approved and established street names on inhabited and occupied streets whenever convenient and necessary for the public safety and welfare. The City Council acknowledges that street name changes on

inhabited streets lead to confusion and inconvenience for residents, businesses, emergency personnel, visitors, utilities, service personnel and the U. S. Postal Service. Therefore, the City Council should approve street name changes on inhabited streets only when the applicant can clearly demonstrate that a majority of inhabitants or occupants favor the action or that the name change would improve public safety and welfare. The procedure to rename a street shall be as follows:

- a. **Inhabited and Occupied Streets.** A property owner or resident on a residential street, property owner or business owner on a commercial or industrial street, City staff, or the City Council may request a hearing to rename an inhabited or occupied street. The property owner, resident, business owner or City staff shall submit the appropriate Planning Division application form and adopted filing fee, along with such other application materials as required by the Planning Manager. A property owner, resident or business owner requesting a street name change shall deposit with the Planning Division the funds necessary to purchase the new street signs. The request shall be referred to the committee for a report and recommendation. A public hearing before the City Council shall be held with proper notice of the hearing given to all residents (or occupants, for commercial and industrial streets) and property owners of the street under review. The City Council's decision shall be final. No further request for review on the same matter shall be allowed for one year following the City Council's denial of a street name change, unless the City Council waives the one-year requirement.
- b. **Uninhabited and Unoccupied Streets.** A property owner, City staff or the City Council may request renaming of an uninhabited street. An uninhabited street is one that has not been inhabited by residents or other occupants (such as business owners in an undeveloped commercial, industrial or residential area). The property owner, resident, business owner or City staff shall submit the appropriate Planning Division application form and adopted filing fee, along with such other application materials as required by the Planning Manager. The City Council is not required to conduct a public hearing on the renaming of an uninhabited or unoccupied street.

The City Council, at their discretion, may rename a street, after reviewing a report and recommendation from the committee, following findings of consistency with the policies contained herein.

- c. **City Action Following Street Name Change Approval.** The City Clerk shall notify affected agencies and utilities of the approved street name change and the Public Works Director shall order the new street name signs, subsequently installing the new signs in place of the existing signs.
- d. **Street Name Changes Prior to Final Map Recording.** The Development Services Director may approve changes to a name or names of streets entirely within an undeveloped subdivision or development upon written request of the property owner, if the final map has not yet been recorded, subject to consistency with the policies herein.

10. Street Naming Committee.

- a. The Street Naming Committee ("committee") shall be composed of a representative and an alternate from each of the Fire and Police Departments, the Planning Division, Building and Engineering Division, Geographic Information Systems, and the United States Postal Service. Each committee member shall have one vote.
- b. The Fire Department representative shall be selected by the City Fire Marshal. The Building and Engineering Division representative shall be the staff member responsible for assigning street numbers. The Postal Service member shall be selected by the Oxnard Postmaster. The Planning Division representative shall be selected by the Planning Manager, and designated as the committee chairperson. The Geographic Information System member shall be selected by the Geographic Information System Manager.

11. Exceptions to Street Naming Policies

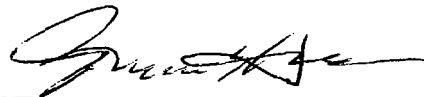
Where the City Council finds that the public interest would be served by naming or renaming a street in a manner otherwise inconsistent with this policy, the Council shall strive to minimize the impact on neighborhood residents (or businesses) and public safety responders. Exceptions are to be made only for extraordinary reasons such as recognition of significant local, regional, or national historic figures.

APPROVED AND ADOPTED this 3rd day of June, 2008, by the following vote:

AYES: Councilmembers Holden, Maulhardt, Zaragoza, Herrera, and Flynn.

NOES: None.

ABSENT: None.



Dr. Thomas E. Holden, Mayor

ATTEST:


Daniel Martinez, City Clerk

APPROVED AS TO FORM:

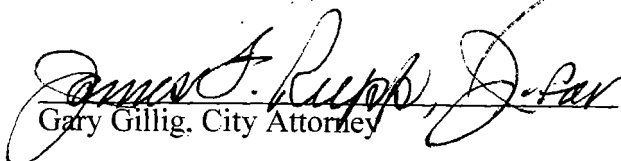
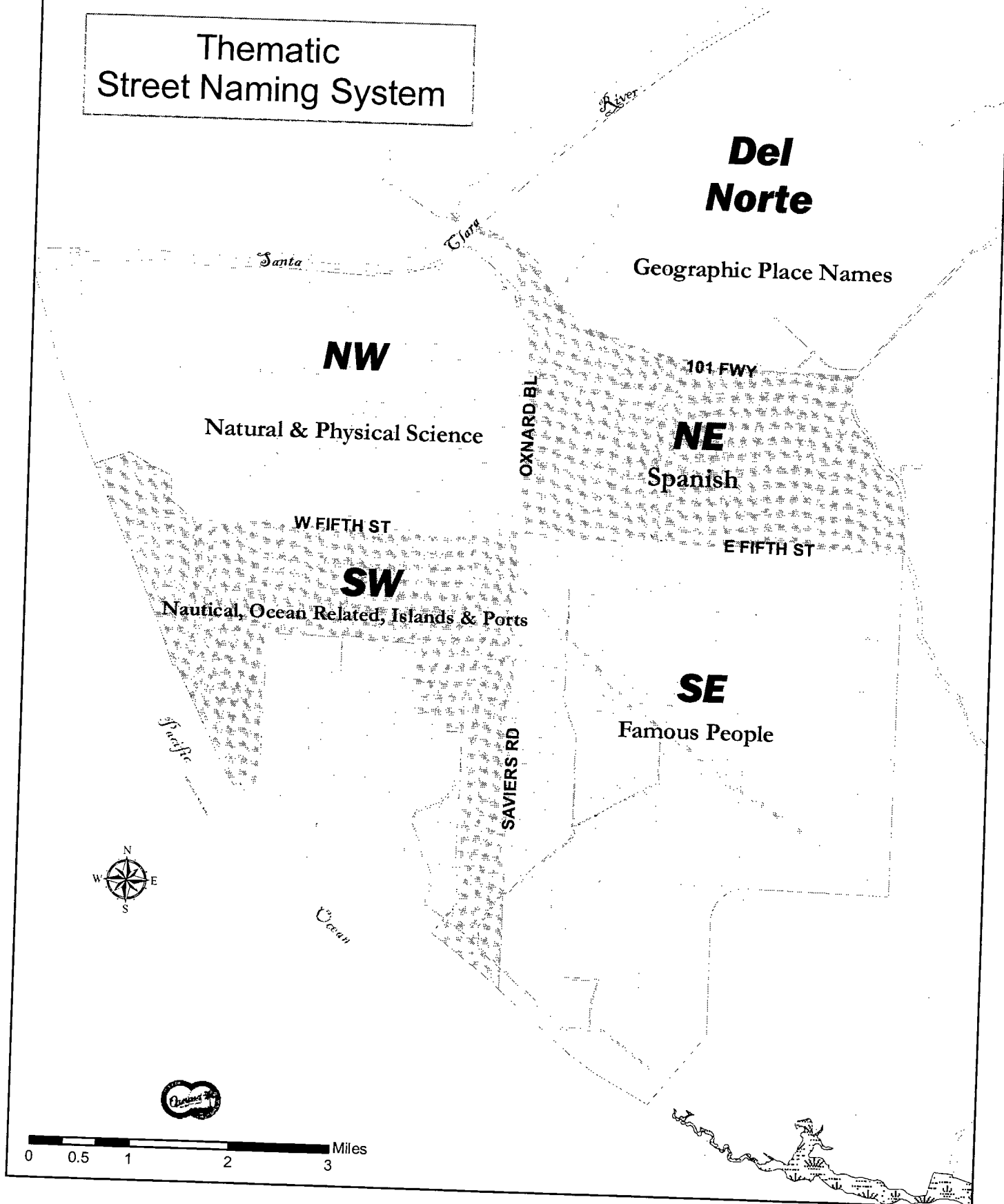

Gary Gillig, City Attorney

Exhibit A

Thematic Street Naming System



CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD APPROVING OF TWO NEW STREETS LOCATED NEAR THE NORTHEAST CORNER OF ROSE AVENUE AND CAMINO DEL SOL. FILED BY DR. THOMAS MCCOY, 1800 SOLAR DRIVE, OXNARD, CA 93030 ON BEHALF OF THE OXNARD UNION HIGH SCHOOL (THE “APPLICANT”).

WHEREAS, Dr. Thomas McCoy (the “Applicant”) submitted a request to approve Planning and Zoning Permit Nos. 22-650-01 (Street Name Change) to allow for the naming of two new streets being constructed as part of the Del Sol High School project. The first street is a new street that will run along the east side of the new high school and is proposed to be named “Jaguar Way”. The second street will run along the north side of the high school connecting the existing Jacinto Drive to Rose Avenue. This road is proposed to be named “Jacinto Drive”; and

WHEREAS, in accordance with City Council Resolution No. 13,448, the Street Naming Committee has reviewed and recommended that the City Council approve Planning and Zoning Permit No. 22-650-01, to name two new streets being constructed as part of the Del Sol High School project within the Northeast Community Specific Plan; and

WHEREAS, the Street Naming Committee has followed the procedure and policies as set forth in City Council Resolution No. 13,448; and

WHEREAS, the Street Naming Committee determined that there are no site addresses along the proposed unnamed streets; and

WHEREAS, the Street Naming Committee is in favor of naming the unnamed streets “Jaguar Way” and “Jacinto Drive”; and

WHEREAS, on May 2, 2023, the City Council of the City of Oxnard conducted a public hearing for the naming the unnamed streets “Jaguar Way” and “Jacinto Drive”, which was duly noticed, and at which time all persons desiring to be heard were heard; and

WHEREAS, evidence was submitted and considered to include without limitation: plans submitted by the Applicant; written information submitted with the application; oral testimony from Staff, the applicant, and the public; staff report, dated May 2, 2023, which was incorporated by this reference as though fully set forth herein; and additional information submitted during the hearing.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF OXNARD:

SECTION 1. The City Council pursuant to California Environmental Quality Act (Public Resources Code Sections 21000 et seq., “CEQA”) and the regulations promulgated thereunder (14 California Code of Regulations Sections 15000 et seq., the “CEQA Guidelines”), it can be seen with certainty that there is no possibility that the proposed naming of these new roads would have a significant effect on the environment (CEQA Guidelines Section 15061(b)(3), and staff

recommends that the City Council accept a Notice of Exemption as part of the determination and the adoption of a resolution by the City Council.

SECTION 2. The City Council of the City of Oxnard finds that the naming of “Jaguar Way” to be in the public interest as this would support the identity of the new high school in the community.

SECTION 3. That the City Council of the City of Oxnard does hereby name the currently unnamed streets “Jaguar Way” and “Jacinto Drive”, in accordance with Exhibit A of this resolution.

SECTION 4. The map attached hereto as Exhibit “A” shows the proposed streets to be named and shall be on file in the office of the City Clerk located at 300 West Third Street, Fourth Floor, Oxnard, California 93030.

SECTION 5. The City Clerk shall certify the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Oxnard on this 2nd day of May 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RECUSE:

John Zaragoza, Mayor

ATTEST: _____
Rose Chaparro, City Clerk

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney

Resolution No. _____
PZ 22-650-01; Del Sol High School Street Naming
May 2, 2023
Page 3 of 3

EXHIBIT A

STREET NAMING EXHIBIT

Del Sol High School Street Naming

Planning & Zoning Permit No. 22-650-01 (Street Name Change)

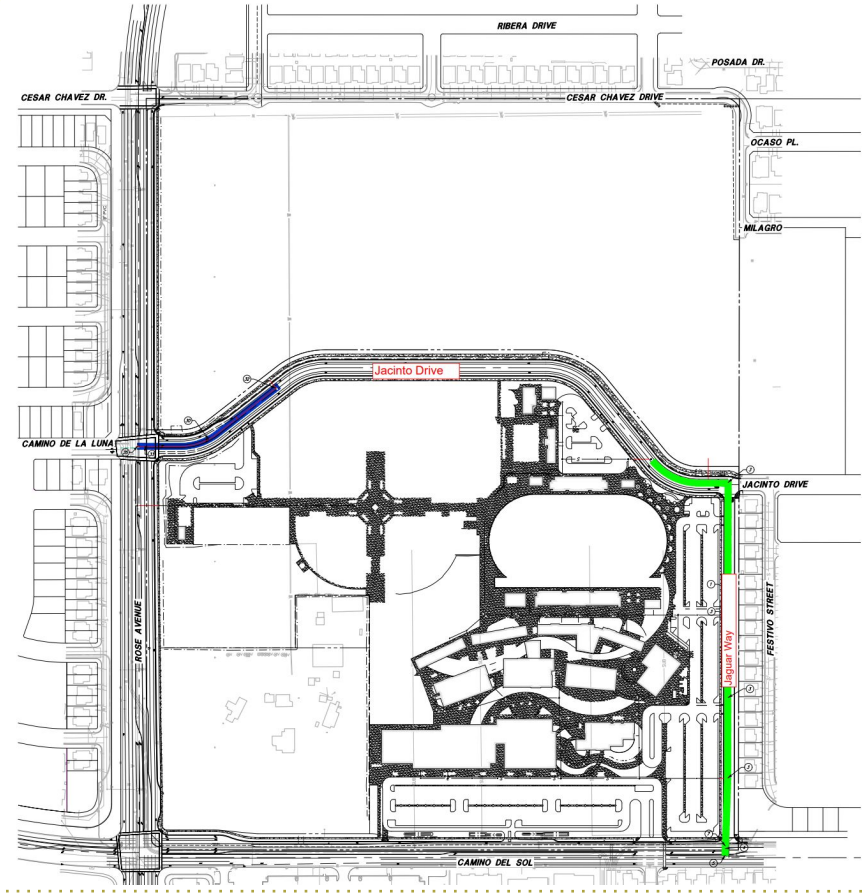
Joe Pearson II, Planning Manager

Maureen Tamuri, Interim Community Development Director

City Council
May 2, 2023

Project Description Street Naming

Request to name two new streets being constructed as part of the Del Sol High School project. The first street is proposed to be named “Jaguar Way”. The second street is proposed to be named “Jacinto Drive”.



Project Location

Future intersection of Jaguar Way
and Camino Del Sol



Future intersection of Rose and
Camino De La Luna/Jacinto Drive



Future intersection of Jaguar Way
and Jacinto Drive

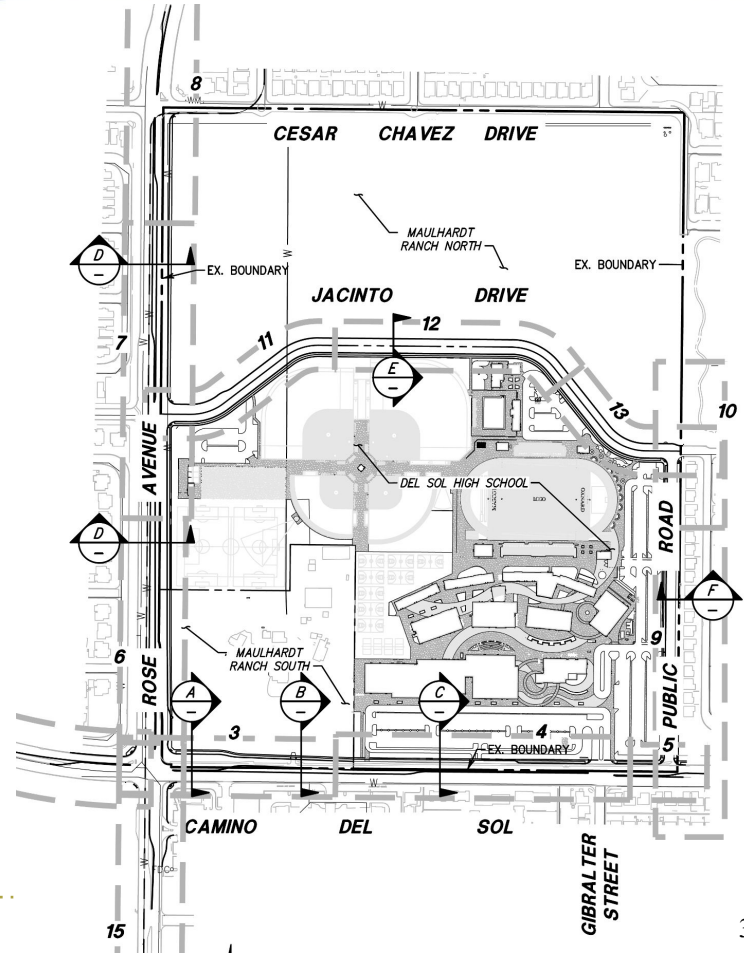


Background: Del Sol High School

4

The Oxnard Union High School District is developing a new high school on a 52.52 acre site at the northeast corner of Rose Avenue and Camino Del Sol.

- Approximately 280,000 square feet school and associated facilities, such as play fields and pool.
- Public improvements to adjacent roadways and utilities.



City Council Resolution No. 13,448

Newly proposed street names must consider and meet the street naming policies as provided by City Council Resolution No. 13,448, some key policies included:

- Consideration of the name length, the established alphabetical City grid system, and spelling and pronunciation conflicts with similar or existing City named streets.
- Thematic street name quadrants throughout the City. The system is intended to lend identity and character to various areas of the City.
- The project is located within the Northeast Quadrant which establishes that streets shall be assigned Spanish language names.

Street Naming Committee Determination

- On January 13, 2023, the Street Naming Committee reviewed and recommended approval of a request to name two new streets being constructed as part of the Del Sol High School project.
- The street naming committee was supportive of the proposed “Jaguar Way” name and the continuation of “Jacinto Drive”.
- Pursuant to City Council Resolution No. 13,448, exceptions can be made to the street naming policies if the public interest would be served.
- As this would support the identity of the new high school in the community, the Street Naming committee found it would serve the public interest.

Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3), it can be seen with certainty that there is no possibility that the proposed street naming would have a significant effect on the environment.

Staff Recommendation

That the City Council:

1. Conduct a public hearing; and
2. Find the project Exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3); and
3. Adopt a Resolution approving the request to name the currently unnamed streets Jaguar Way and Jacinto Drive.





CITY COUNCIL AGENDA REPORT

PUBLIC HEARINGS AGENDA ITEM NO. K.3

DATE: May 2, 2023

TO: City Council

FROM: Maureen Tamuri, Interim Community Development Director, (805) 385-7882,
maureen.tamuri@oxnard.org

SUBJECT: Recovery of Nuisance Abatement Costs. (15 minutes)

RECOMMENDATION

That the City Council:

1. Conduct a public hearing to consider objections to the cost report of the property owners whose property is to be assessed for nuisance abatement costs;
2. Approve the cost report; and
3. Direct the City Manager or designee to file a certified copy of the cost report with the Ventura County Auditor-Controller.

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/iWF85RM9ydE>

BACKGROUND

Oxnard City Code (OCC) Sections 7-17, 7-18 and 7-158, inclusive, set forth the procedures for recovering nuisance abatement costs incurred by the City in abating public nuisances. OCC Sections 7-13 and 7-157 provide that nuisance abatement costs, including any notice and appeal costs, shall be paid by the person creating, causing, committing or maintaining the nuisance.

Furthermore, OCC Section 7-14 and 7-158 provide that nuisance abatement costs shall be a lien against the property on which the nuisance is maintained, as well as a personal obligation of the property owner.

In accordance with OCC Sections 7-4 through 7-8 and 7-154 through 7-155, a notice to abate was mailed to each property owner. The notice also informed the property owner of their right to appeal and that a written request for an appeal before a hearing officer must be received by the City Clerk within 10 days of receiving this notice. No requests for appeal were received.

Pursuant to OCC sections 7-16 and 7-158, the Nuisance Abatement Cost Report 2022 (Attachment 1) was posted at City Hall, 300 West Third Street, on March 30, 2023. Pursuant to OCC Sections 7-17 and 7-158, the City Council is to consider objections by any property owner whose property is to be assessed with nuisance abatement costs as set forth in the cost report. Appropriate adjustments to the cost report may be made at the City Council's direction.

Upon approval of the 2022 Nuisance Abatement Report, the City Manager shall file a certified copy of the report with the Ventura County Auditor-Controller in order to enter the nuisance abatement costs as special assessments on the fiscal year 2022-2023 property tax roll for the following properties:

5587 Saviers Road (APN 220-0-011-110): Abated on 1/25/2022, \$2,909.00

161 W. Hueneme Road (APN 222-0-011-305): Abated on 1/25/2022, \$6,012.00

1600 Lookout Drive (APN 187-0-123-015) : Abated on 8/12/2022, \$48,126.51

STRATEGIC PRIORITIES

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

FINANCIAL IMPACT

Approval of the 2022 Nuisance Abatement Report and the placement of the special assessments on the Ventura County 2022-2023 property tax roll will enable the City to recover \$57,047.51 in nuisance abatement costs incurred in 2022.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: James Stephens, Code Compliance Manager

ATTACHMENTS

1. Nuisance Abatement Cost Report 2022
2. 2022 Nuisance Abatements legal notice
3. 2022 Abatement Costs Staff Presentation

ATTACHMENT 1

NUISANCE ABATEMENT REPORT

The City has abated nuisances on the following properties in accordance with Oxnard City Code Chapter 7.

PROPERTY OWNER	LIEN PARCEL NO.	CLEAN UP DATE	TOTAL DUE	
DAYA ENTERPRISES INC ATTN. SUKHBIR KAUR DHALIWAL 6901 WORTH WAY CAMARILLO, CA 93012	220-0-011-110		ABATEMENT COSTS:	\$2,909.00
	5587 SAVIERS RD.		NOTICE COSTS:	
			APPEAL COSTS:	
	NOTICE DATE: 12/02/2021	01/25/2022	TOTAL COSTS:	\$2,909.00
ATOIAN GRIGOR-LORETTA TR 24940 ALICANTE DR CALABASAS, CA 91302	222-0-011-305		ABATEMENT COST	\$6,012.00
	161 W. HUENEME RD		NOTICE COSTS:	
			APPEAL COSTS:	
	NOTICE DATE: 10/19/2021	01/25/2022	TOTAL COSTS:	\$6,012.00
SHELBY BROUSSEAU 1600 LOOKOUT DR OXNARD, CA 93035	187-0-123-015		ABATEMENT COSTS:	\$48,076.51
	1600 LOOKOUT DR.		NOTICE COSTS:	50.00
			APPEAL COSTS:	
	NOTICE DATE: 08/05/2022	08/12/2022	TOTAL COSTS:	\$48,126.51
REPORT TOTALS:			\$57,047.51	

In the Superior Court of the State of California

IN AND FOR THE COUNTY OF VENTURA

CERTIFICATE OF PUBLICATION

TYPE OF NOTICE

OXNARD CITY COUNCIL NOTICE OF PUBLIC HEARING

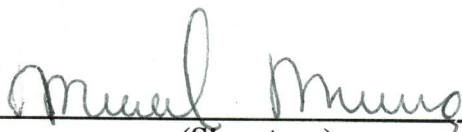
STATE OF CALIFORNIA
COUNTY OF VENTURA

I Manuel Muñoz
hereby certify that Ventura County VIDA
Newspaper, is a newspaper of general
circulation within the provision of the
Government Code of the State of California,
printed and published in the County
of Ventura, State of California; that I am
the Principal Clerk of said newspaper;
that the annexed clipping is a true printed
copy and published in said newspaper on
the following dates, to wit.

March 30, 2023

I certify under penalty of perjury that the
foregoing is true and correct, at Oxnard,
County of Ventura, State of
California, on the

30th day of March 2023


(Signature)



OXNARD CITY COUNCIL NOTICE OF PUBLIC HEARING

The Oxnard City Council will conduct a public hearing on Tuesday, May 02, 2023 at 6:00 p.m., or as soon thereafter as the matter may be heard, at the City Council Chambers of the City of Oxnard located at 305 West Third Street in Oxnard, California pursuant to Oxnard City Code (OCC) Sections 7-17 and 7-18, to consider the assessment of a lien to be placed on the county tax roll for abatement costs for the below properties.

NUISANCE ABATEMENT REPORT

The City has abated nuisances on the following properties in accordance with Oxnard City Code Chapter 7.

PROPERTY OWNER	LIEN PARCEL NO.	CLEAN UP DATE	TOTAL DUE	
DAYA ENTERPRISES INC ATTN. SUKHBIR KAUR DHALIWAL 6901 WORTH WAY CAMARILLO, CA 93012	220-0-011-110		ABATEMENT COSTS	\$2, 909.00
	5587 SAVIERS RD.		NOTICE COSTS:	
			APPEAL COSTS:	
	NOTICE DATE: 12/02/2021	01/25/2022	TOTAL COSTS:	\$2,909.00
ATOIAN GRIGOR- LORETTA TR 24940 ALICANTE DR CALABASAS, CA 91302	222-0-011-305		ABATEMENT COST	\$6, 012.00
	161 W. HUENEME RD		NOTICE COSTS:	
			APPEAL COSTS:	
	NOTICE DATE: 10/19/2021	01/25/2022	TOTAL COSTS:	\$6, 012.00
SHELBY BROUSSEAU 1600 LOOKOUT DR OXNARD, CA	187-0-123-015		ABATEMENT COSTS	\$48,076.51
	1600 LOOKOUT DR.		NOTICE COSTS:	50.00
			APPEAL COSTS:	
	NOTICE DATE: 08/05/2022	08/12/2022	TOTAL COSTS:	\$48, 126.51

The City Council staff report and report materials will be available for viewing on the City's webpage at www.oxnard.org/city-meetings.

All INTERESTED PARTIES are invited to present oral or written testimony on the matter. Written comments may be sent to the City Clerk via email at cityclerk@oxnard.org. Those wishing to speak during the meeting must fill out the speaker request form on the City's webpage at www.oxnard.org/city-meetings or call the City Clerk's office at (805) 385-7803 no later than 3:00 p.m. on the day of the meeting.

If you wish to legally challenge any action taken by the City on this matter you may be limited to raising only those issues you or someone else raised at this public hearing as described in this notice or in written correspondence delivered to the City Clerk prior to or at the public hearing.

The public may view the meeting at which the public hearing will be conducted beginning at 6:00 p.m. on the City's website (www.oxnard.org/city-meetings), on YouTube (www.youtube.com/oxnardnews) or Spectrum channel 10 / Frontier channel 35. For more information about this item please contact James Stephens, Code Compliance Manager, at (805)-385-7940 or james.stephens@oxnard.org.

Recovery of Nuisance Abatement Costs Public Hearing

Jeff Pengilley, P.E., Assistant Director
James Stephens, Code Compliance Manager
Community Development Department

May 2, 2023
City Council

Oxnard City Code (OCC) Sections 7-17, 7-18 and 7-158, inclusive, set forth the procedures for recovering nuisance abatement costs incurred by the City in abating public nuisances. OCC Sections 7-13 and 7-157 provide that nuisance abatement costs, including any notice and appeal costs, shall be paid by the person creating, causing, committing or maintaining the nuisance.

Additionally, OCC Section 7-14 and 7-158 provide that nuisance abatement costs shall be a lien against the property on which the nuisance is maintained, as well as a personal obligation of the property owner.

- On January 25, 2022, an abatement was conducted at 5587 Saviers Road to abate numerous violations of the City of Oxnard Municipal Code.
- Notice to Abate mailed to the property owner and posted upon the nuisance property at 5587 Saviers Road on December 02, 2021.
- No requests for appeal were received.
- The abatement costs = \$2,909.00.

Before



After



- On January 25, 2022, an abatement was conducted at 161 W. Hueneme Road to abate numerous violations of the City of Oxnard Municipal Code.
- Notice to Abate mailed to the property owner and posted upon the nuisance property at 161 W. Hueneme Road on October 19, 2021.
- No requests for appeal were received.
- The abatement costs = \$6,012.00.

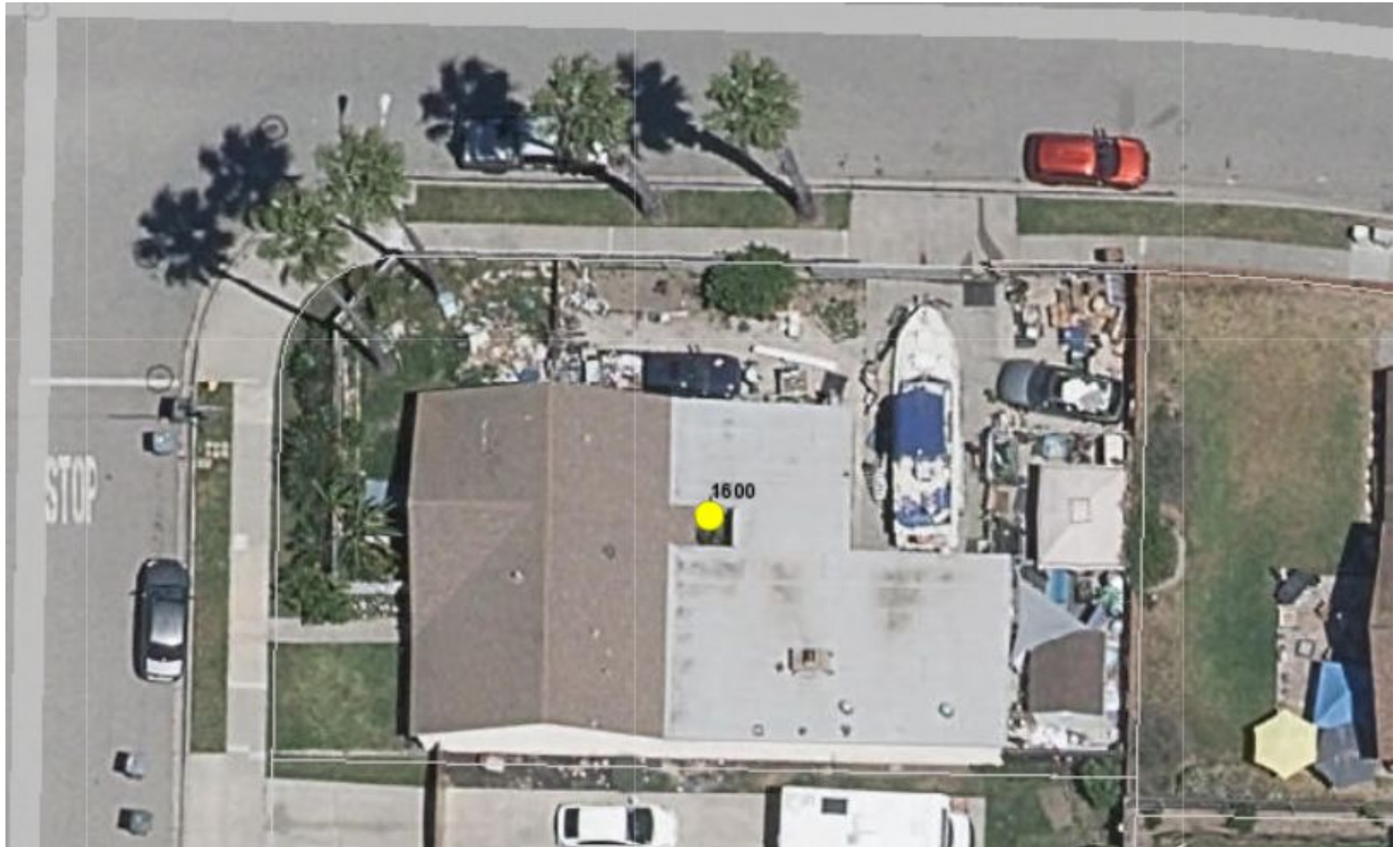
Before



After



- On August 12, 2022, abatement was conducted at 1600 Lookout Drive to abate numerous violations of the City of Oxnard Municipal Code.
- Notice to Abate mailed to the property owner and posted upon the nuisance property at 1600 Lookout Drive on August 05, 2022.
- No requests for appeal were received.
- The abatement costs = \$48,126.51.



Before



After



Upon approval of the 2022 Nuisance Abatement Report, the City Manager shall file a certified copy of the report with the Ventura County Auditor-Controller in order to enter the nuisance abatement costs as special assessments on the fiscal year 2022-2023 property tax roll for the following properties:

5587 Saviers Road (APN 220-0-011-110)

161 W. Hueneme Road (APN 222-0-011-305)

1600 Lookout Drive (APN 187-0-123-015)

That the City Council:

1. Conduct a public hearing to consider objections to the cost report of the property owners whose property is to be assessed for nuisance abatement costs;
2. Approve the cost report; and
3. Direct the City Manager or designee to file a certified copy of the cost report with the Ventura County Auditor-Controller.





CITY COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. L.1

DATE: May 2, 2023

TO: City Council

FROM: Helen Miller, Chief Information Officer, (805)385-7446, helen.miller@oxnard.org

SUBJECT: Purchase of Microsoft products 'piggybacking' off of County of Riverside Microsoft Enterprise Agreement. (10 minutes)

RECOMMENDATION

That the City Council:

1. Approve "piggybacking" off of the County of Riverside's Microsoft Enterprise Agreement 8084445 licensed service provider agreement PSA- 0001522; and
2. Authorize the Mayor to execute a purchase order with CDW Government LLC, a "piggyback" service provider and authorized Microsoft reseller, for an amount not-to-exceed \$1,727,616 for the continued use and purchase of Microsoft products for three years beginning May 1, 2023, through April 30, 2026; and
3. Authorize the Mayor to execute a Microsoft Volume Licensing Program Signature Form.

(Finance and Governance Committee approved 3-0.)

Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/D1pz1ZV_UzE

BACKGROUND

Since 2011, the City of Oxnard has used a Microsoft Enterprise Agreement (EA) for the Microsoft software licenses, software maintenance, cloud services, and professional services used by the Police and Fire Departments. Microsoft software is on every Police Department and Fire station computer and on most of their technology infrastructure servers, providing the systems used to conduct day-to-day operations and deliver services to residents. The current EA, which expires on April 30, 2023, provides licensing for 515 computer workstation Windows operating systems, desktop productivity software suites (e.g., Microsoft Word, Excel, PowerPoint, Visio), and the licensing for database and server infrastructure used for public safety operations; e.g., electronic content management, time-keeping, records management, computer aided dispatch, remote IT support, reporting writing.

The City desires to "piggyback" off of the County of Riverside's competitively bid Microsoft Enterprise Master Purchase Agreement, which is used by more than 900 public entities. This agreement provides the City with greater savings than if it were to negotiate with Microsoft on its own. The agreement enables the City of Oxnard to: (1) lock in pricing for the length of a three-year term, (2) amortize the cost of new licenses and support across multiple years, (3) access all necessary Microsoft software available for purchase, (4) raise and lower flexible commitments on hosted services, and (5) obtain additional licenses to meet the City's operational and strategic technology needs for the next three years.

Under the EA's Software Assurance Benefits, the City will continually receive software patches, security updates, and any upgrades to the latest versions of Microsoft products during the term of the three-year agreement. The EA provides the most efficient and cost-effective approach to maintaining these software licenses with a single annual payment. Each

year, the City must ‘true-up’ our EA year end total payment to account for all the Microsoft product changes required throughout the previous twelve month period to sustain and support City departments’ existing and evolving operations. For example, this new EA includes a rolled over 24% licensing growth rate for public safety’s usage of Microsoft device licensing when compared with their licensing needs at the beginning of the current EA agreement. The increase is attributed to the larger number of network connected computer devices (+100) required by public safety from April 2020 through May 2023.

DISCUSSION

For more than twenty years, the City has used Microsoft as the platform throughout the organization, including Windows desktop and server operating systems, business applications such as Office suite (Word, Excel, PowerPoint) and Structured Query Language (SQL) Server, which is used to store and manage data for the City. This purchase will rectify the number of valid licenses for Windows desktop based on the City’s current staffing levels and computer systems in use. The addition of Microsoft Systems Center for datacenter management will allow the City’s Information Technology (IT) Department to upgrade and maintain the City’s 240 virtual servers, used to run the City departments’ business software applications, so that they are on the latest operating system, updates and security patches. Datacenter management will provide the City with necessary control of its IT environment and platforms by simplifying the deployment, configuration, management and monitoring of infrastructure while increasing agility and performance. The addition of SQL Service licensing will allow IT to properly segment database resources to adequately support data usage, security, and demand based on the City’s software solutions. As some of the City’s enterprise and department solutions no longer support older SQL Server databases, this will provide the ability to upgrade to the latest versions in order to properly support these systems and maintain necessary updates and security patches. Therefore, in addition to renewing the EA for public safety’s continued use of Microsoft products over the next three years, this renewal expands the EA to be citywide so all City departments have up-to-date and supported Microsoft products. The majority of non-public safety department Microsoft licenses are old, which presents material risk to City operations and the continuity of resident service delivery. Purchasing and deploying enterprise-wide Microsoft licenses for the entire City enhances the City’s cyber resilience.

The new EA includes the continuation of public safety’s 515 device licenses and other products currently in use, plus adds an additional 325 new device licenses with Office Suite and 644 new device operating system only licenses in EA year 1, another 644 Office Suite device licenses throughout EA years 2 and 3, and adds SQL and Microsoft Systems Center licensing and professional services. The three-year not to exceed total cost of \$1,727,616 includes a 20% contingency (due to 24% growth this past year). Annual amounts and timing/volume of product purchases are estimated and are subject to change within the three-year EA term while adhering to the three-year not-to exceed total. Microsoft product cost estimates in the table below are subject to change as actual quote(s) are contingent upon Microsoft’s timeline for issuing EA renewal quotes to resellers within Microsoft’s prescribed EA renewal process window. IT anticipates receipt of a final CDW-G quote and formal Microsoft renewal paperwork within the next two week period following Council approval of this agenda item. The actual Purchase Order and Signature Form will come after Council approval, as is customary for Microsoft agreements.

Over this new EA’s three-year term, the City’s current device count total -- 1,484 -- will be transitioned from 35% licensed to 100% licensed. These will be perpetual licenses owned by the City, ensuring that upkeep of these devices as well as for Microsoft servers, operating systems, databases, network management systems and other network components are sustained for City departments’ current and future needs. A 20% cost contingency is included to account for anticipated growth, unforeseen remediation or emergency, and the flexibility to meet the City’s Microsoft needs through April 31, 2026, when this new EA will terminate.

The table below shows the estimated cost to the City each year for the proposed new EA:

Description	Estimated EA Year 1	Estimated EA Year 2	Estimated EA Year 3	Total
EA for Public Safety users (515 devices) w/MS-Office	\$96,048	\$96,048	\$96,048	\$288,144

EA for City users (325 devices) w/MS-Office	\$272,425	\$0	\$0	\$272,425
EA for City users (644 devices) Operating System/CALs only	\$220,145	\$0	\$0	\$220,145
EA for City users (644 devices) starting Year 2 -add MS-Office	\$0	\$132,960	\$106,083	\$239,043
EA for servers, databases, remote services, cloud, prof svcs	\$27,321	\$27,321	\$27,321	\$81,963
EA for infrastructure/ datacenter (1500 endpoints)	\$140,960	\$197,000	\$0	\$337,960
Contingency (20% over 3 year term)	\$151,380	\$90,666	\$45,890	\$287,936
TOTAL (per fiscal year)	\$908,279	\$543,995	\$275,342	\$1,727,616- Not to Exceed 3yr total

The three-year not to exceed total cost of \$1,727,616 is \$300,644 less than the cost estimate that was previously approved by the Finance and Governance Committee on 3/28/23. Factors contributing to this reduction include further refinements to the Microsoft products and purchase timing intervals during the three-year agreement term; and, City of Oxnard's change to another competitively bid City of Riverside agreement licensed service provider ('reseller'), CDW-Government. CDW-Government's services are tailored to meet the unique needs of local government. The City requires a reseller who will provide the IT Department with improved support and responsiveness. Lastly, CDW-Government's City of Riverside pricing schedule resulted in lower cost projections when aligned with the Microsoft products that the City currently purchases and anticipates purchasing.

STRATEGIC PRIORITIES

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

FINANCIAL IMPACT

This purchase increases the City's three-year estimated renewal cost for Microsoft products, inclusive of a 20% growth contingency, from \$444,128 for the Police and Fire Departments only, to \$1,727,616 for all City departments and the addition of IT datacenter management capabilities. This is an increase of \$1,283,488 for the three-year agreement term, averaging \$575,872 annually for citywide versus \$148,043 annual average for public safety only.

Funds for this expenditure are included in the IT department's FY 22-23 budget for EA Year 1 as this payment is due upon execution of the agreement starting May 1, 2023. Future years' payment obligations will be allocated into the IT budget as part of the normal annual budgeting process.

COMMITTEE OUTCOME

The Finance and Governance Committee approved 3-0 on March 28, 2023, to approve the staff recommendation and to forward the time for Council approval.

Prepared by: Helen Miller, Chief Information Officer, Jerome Staszewski, Systems Administrator

ATTACHMENTS

1. Microsoft EA Riverside Cnty LSP Reseller Agreements Oct2019
2. Presentation - City Council 05-02-23 Item N1 Microsoft

SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



ITEM: 3.16
MT: (ID # 11118)

MEETING DATE:

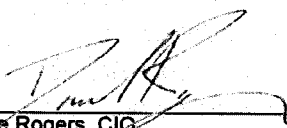
FROM : RIVERSIDE COUNTY INFORMATION TECHNOLOGY: Tuesday, October 22, 2019

SUBJECT: RIVERSIDE COUNTY INFORMATION TECHNOLOGY (RCIT): Approve the Licensing Solution Provider Agreements with the Licensing Solution Providers (LSP) from November 1, 2019 through October 31, 2021 to Enroll Other Governmental Agencies in Microsoft Enterprise Agreement #8084445, All Districts. [RCIT ISF Contract Revenue]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the Licensing Solution Provider Agreements with the ten (10) Licensing Solution Providers (LSP) listed in the background summary from November 1, 2019 through October 31, 2021, to provide contract management and license support services for the County and its enrolled affiliates for licenses and technical support services purchased under the County's Microsoft Enterprise Agreement #8084445, and authorize the Chairman of the Board to execute the Agreements on behalf of the County; and
2. Authorize the Purchasing Agent, in accordance with Ordinance No. 459, based on the availability of fiscal funding and as approved by County Counsel to: sign amendments that exercise the options of the Agreement, including modifications of the services and rates that stay within the intent of the Agreement.

ACTION: Policy


Dave Rogers, CIO 10/15/2019

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Perez, seconded by Supervisor Spiegel and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt
Nays: None
Absent: None
Date: October 22, 2019
xc: RCIT

Kecia R. Harper
Clerk of the Board
By: 
Deputy

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,
STATE OF CALIFORNIA**

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 0	\$ 0	\$ 0	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: Revenue (0.5% of all enrollments)			Budget Adjustment:	No
			For Fiscal Year:	19/20-21/22

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

The County of Riverside is entering into a new Microsoft Enterprise Agreement No. 8084445 (the "Master Agreement") for the purchase of software licenses, software maintenance, cloud services, and professional services. Under this Master Agreement Riverside County, along with its enrolled affiliates, will have the ability to enter into one or more enrollments for Microsoft products and/or services. Common desktop products that are purchased include but are not limited to Microsoft Windows, Microsoft Office, Microsoft Visio, and Microsoft Project. Common enterprise products include but are not limited to Microsoft Windows Server, Microsoft SQL Server, and Microsoft System Center. Common cloud subscription services include but are not limited to Microsoft Office 365, Microsoft Intune, and Microsoft Azure. Due to the accelerated evolution and demands for technology, the Public Sector has started sharing the risk with companies like Microsoft to build and maintain systems which ease the burden of delivering enterprise class services through Cloud, Software as a Service (SAAS), and Infrastructure as a Service (IAAS) products and services.

Enterprise class security and regulatory compliance creates a catalyst for a new kind of relationship with Technology Partners like Microsoft.

This Licensing Solution Provider Agreement (the "Agreement") is intended to be available and leveraged by government agencies throughout the State of California (the "Enrolled Affiliates"). The Licensing Solution Providers are: 1) CDW Government LLC, 2) Crayon Software Experts LLC, 3) Dell Marketing LP, 4) GovConnection Inc., 5) Insight Public Sector Inc., 6) PCMG Inc., 7) SHI International Corp., 8) SoftChoice Corporation, 9) SoftwareOne Inc., and 10) Zones LLC.

An agreement of this nature allows agencies to lock in pricing for the length of their enrollment, amortize the cost of new licenses and support across multiple years, provide unlimited access to all Microsoft software, and allow flexibility to raise and lower commitments on hosted services. Like the County of Riverside, other government entities have been challenged with keeping software current while minimizing the associated costs. The Microsoft Enterprise Agreement's Software Assurance Benefits allows for licensing rights to the most current released version to be utilized at no additional cost which mitigates the risk of potential cost increases of Microsoft products over the next two years.

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,
STATE OF CALIFORNIA**

There are currently over 900 government agencies that utilize the existing County of Riverside Microsoft Master Agreement. The County of Riverside has made significant strides toward setting standards on enterprise software and licensing agreements with an emphasis on consolidated agreements. These standards and volume pricing are shared with other government entities across the State of California as more government agencies are finding the benefits of entering into a Microsoft Enterprise Agreement.

Impact on Residents and Businesses

There is no negative impact on citizens and businesses. The master agreement provides maximum discounts as a result of cooperative efforts with various governmental agencies in the State of California.

Additional Fiscal Information

The Licensing Solution Provider (LSP) will be charged .5% of the annual enrollment amount per each Enrolled Affiliate to leverage the Riverside County Master Microsoft Agreement No. 8084445, Select Plus Agreement No. 7756479, Microsoft Premier, Unified, and MCS Support services. This will be an annual fee, per enrollment inclusive of Affiliates Shadow Enrollments. Example: A three-year aggregated agreement with a contract amount of \$300K, divisible by three years will result in an LSP Participation Fee of \$500 annually ($100K \times .5\%$). RCIT will invoice the Awarded LSP annually based on the enrollments verified from the "Reporting of Active Enrollments" list submitted by December 15th of each year. Payment is due to Riverside County Information Technology thirty (30) days from invoice date. These costs are not to be pushed to the customers and should be absorbed by the LSP as directed in Licensing Solution Provider Agreement and RFQ #RIVCO-2020-RFQ-0000048.

Contract History and Price Reasonableness

The Purchasing Department on behalf of the departments issued a bid, Request for Quote (RFQ) #RIVCO-2020-RFQ-0000048, for County-wide Microsoft licenses, product and services available on Microsoft Enterprise Agreement #8084445 through an authorized Licensing Solution Provider (LSP). The RFQ was viewed by forty-seven (47) companies and the County received bids from ten (10) LSP's with ten (10) responsive bids. The bid responses were based on a percentage mark-up or mark-down from the Government level pricing established by Microsoft and provided to all LSP's. The bid ranges were from -0.56% markdown to a 3.50% mark-up.

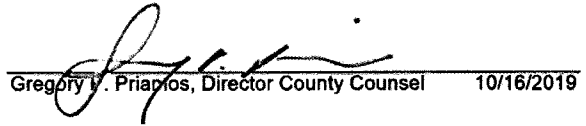
ATTACHMENTS:

1. CDWG LSP Agreement
2. Crayon LSP Agreement
3. Dell LSP Agreement
4. GovConnect LSP Agreement
5. Insight LSP Agreement

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,
STATE OF CALIFORNIA**

6. PCMG LSP Agreement
7. SHI LSP Agreement
8. SoftChoice LSP Agreement
9. SoftwareOne LSP Agreement
10. Zones LSP Agreement


Tina Grande, Assistant Purchasing Director 10/16/2019


Gregory V. Priapros, Director County Counsel 10/16/2019

Licensing Solution Provider Agreement Number PSA-0001522

This Licensing Solution Provider Agreement is made and entered into this 22nd day of October 2019, by and between CDW Government LLC, an Illinois limited liability company ("CONTRACTOR"), and the COUNTY OF RIVERSIDE, a political subdivision of the State of California, ("COUNTY").

WHEREAS, COUNTY and Microsoft Corporation ("Microsoft") have entered into that certain Microsoft Enterprise Agreement (Master Agreement No. 8084445; the "Master Agreement"), effective August 23, 2019, under which COUNTY has the ability to enter into one or more enrollments to order certain Microsoft product licenses;

WHEREAS, CONTRACTOR desires to provide support to COUNTY and its Enrolled Affiliates (as defined in the Master Agreement) for said licenses under this Agreement and hereby represents that it has the skills, experience, and knowledge necessary to perform under this Agreement; and

WHEREAS, COUNTY desires to accept CONTRACTOR's services under this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

1. This Agreement covers all enrollments for all products licensed under the Master Agreement. All terms and conditions of the Master Agreement, attached as Exhibit E of this Agreement and incorporated by reference, shall apply to the purchase of related products and services.
2. This Agreement is available for use by all government entities within the State of California (an "Enrolled Affiliate") for the duration of the Term (defined below in section 4). Enrollment documents will contain the terms and conditions specific to each entity.
3. CONTRACTOR agrees to extend the same pricing, terms, and conditions as stated in this agreement to each and every government entity in the State of California. Terms and conditions are governed by this Agreement, the Master Agreement, and the applicable enrollment documents for each entity. Entities shall make purchases in their own name, make direct payment to CONTRACTOR, and be liable directly to CONTRACTOR for all obligations.
 - 3.1 COUNTY shall in no way be responsible to CONTRACTOR for Enrolled Affiliates' purchases and obligations. COUNTY shall in no way be responsible to other entities for their purchases or any acts or omissions of CONTRACTOR, including but not limited to product selection or implementation, services or other related matters.
 - 3.2 CONTRACTOR shall notify Enrolled Affiliate in writing of the terms and conditions stated in Section 11.
4. This Agreement shall be effective from November 1, 2019 through October 31, 2021, unless terminated earlier (the "Term").
5. Hold Harmless/Indemnification:
 - 5.1 CONTRACTOR shall indemnify and hold harmless the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as Indemnitees) from any liability, action, claim or damage whatsoever, based or asserted upon any services, or acts or omissions, of CONTRACTOR, its

Licensing Solution Provider Agreement Number PSA-0001522

officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature. CONTRACTOR shall defend the Indemnitees at its sole expense including all costs and fees (including, but not limited, to attorney fees, cost of investigation, defense and settlements or awards) in any claim or action based upon such acts, omissions or services.

- 5.2 With respect to any action or claim subject to indemnification herein by CONTRACTOR, CONTRACTOR shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of COUNTY; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes CONTRACTOR indemnification to Indemnitees as set forth herein.
- 5.3 CONTRACTOR'S obligation hereunder shall be satisfied when CONTRACTOR has provided to COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action or claim involved.
6. Contractor Responsibilities: CONTRACTOR will offer the following services to each Enrolled Affiliate at no additional charge. It is the responsibility of the Enrolled Affiliate to determine which products and/or services, if any, meet their needs and communicate that to the CONTRACTOR.
 - 6.1 Provide reports showing year to date annual spend according to Enrolled Affiliate's specifications. Frequency will be determined by each Enrolled Affiliate (monthly, quarterly, etc.).
 - 6.2 Provide a short synopsis of why an amendment is needed and the ramification of each amendment to an enrollment at the time of such amendment.
 - 6.3 Provide an updated price list on an annual basis or when requested by Enrolled Affiliate.
7. CONTRACTOR's Microsoft Enterprise Agreement license subscription price attached hereto as Exhibit A and service rates attached hereto as Exhibit B.
8. CONTRACTOR's Microsoft Enterprise Agreement Participation Form attached hereto as Exhibit C and incorporated herein by reference.
9. Usage Reporting: CONTRACTOR will provide to COUNTY the Licensed Support Provider (LSP) Reporting of Active Enrollments to Master Microsoft Enterprise Agreement No. 8084445, Select Plus Agreement No. 7756479, Microsoft Premier, Unified, and MCS Support services, showing a list of enrollments by February 15th of each year. Forms shall be submitted electronically to MasterMicrosoftAdmin@rivco.org. A copy of the form is attached hereto as Exhibit D and incorporated herein by reference.
10. Administrative fees: CONTRACTOR will be charged .5% of the annual enrollment amount to leverage the Riverside County Master Microsoft Agreement No. 8084445, Select Plus Agreement No. 7756479, Microsoft Premier, Unified, and MCS Support services. This will be an annual fee, per enrollment inclusive of Affiliates Shadow Enrollments. Example: A three-year aggregated agreement with a contract amount of \$300K, divisible by three years will result in an LSP Participation Fee of \$500 annually (100K*.5%). RCIT will invoice the Awarded LSP annually based on the enrollments verified from the

Licensing Solution Provider Agreement Number PSA-0001522

“Reporting of Active Enrollments” list submitted by December 15th of each year. Payment is due to Riverside County Information Technology thirty (30) days from invoice date.

10.1 Riverside County Information Technology (RCIT) will invoice the CONTRACTOR annually based on the enrollments verified. Payment is due to RCIT within thirty (30) days of invoice date. The COUNTY will not accept credit as a form of payment.

10.2 Failure to meet the administrative fee requirements herein and submit fees on a timely basis may constitute grounds for immediate termination of this Agreement.

11. Contract Management: The contacts for this Agreement for COUNTY shall be both RCIT and Purchasing as listed below.

COUNTY Primary Contact:
Jim Smith
3450 14th Street
Riverside, CA 92501

COUNTY Secondary Contact:
Rick Hai
2980 Washington Street
Riverside, CA 92504

CONTRACTOR contact:
Sherri McLean
120 S. Riverside Plaza, 7th Floor
Chicago, IL 60606

11.1 Should Contract Management contact information change, the CONTRACTOR shall provide written notice with the updated information to the COUNTY no later than 10 business days after the change.

12. Termination:

12.1 COUNTY may terminate this Agreement without cause upon thirty (30) days written notice served upon the CONTRACTOR stating the extent and effective date of termination.

12.2 COUNTY may, upon five (5) days written notice terminate this Agreement for CONTRACTOR's default, if CONTRACTOR refuses or fails to comply with the terms of this Agreement or fails to make progress that may endanger performance and does not immediately cure such failure. In the event of such termination, the COUNTY may proceed with the work in any manner deemed proper by COUNTY.

12.3 CONTRACTOR's rights under this Agreement shall terminate (except for fees accrued prior to the date of termination) upon dishonesty or a willful or material breach of this Agreement by CONTRACTOR; or in the event of CONTRACTOR's unwillingness or inability for any reason whatsoever to perform the terms of this Agreement.

13. Conduct of Contractor:

13.1 The CONTRACTOR covenants that it presently has no interest, including, but not limited to, other projects or contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with CONTRACTOR's performance under this Agreement. The CONTRACTOR further covenants that no person or subcontractor having any such interest shall be employed or retained by CONTRACTOR under this Agreement. The CONTRACTOR agrees

Licensing Solution Provider Agreement Number PSA-0001522

to inform the COUNTY of all the CONTRACTOR's interests, if any, which are or may be perceived as incompatible with the COUNTY's interests.

- 13.2 The CONTRACTOR shall not, under circumstances which could be interpreted as an attempt to influence the recipient in the conduct of his/her duties, accept any gratuity or special favor from individuals or firms with whom the CONTRACTOR is doing business or proposing to do business, in accomplishing the work under this Agreement.
- 13.3 The CONTRACTOR or its employees shall not offer gifts, gratuity, favors, and entertainment directly or indirectly to COUNTY employees.
- 13.4 CONTRACTOR shall establish adequate procedures for self-monitoring and quality control and assurance to ensure proper performance under this Agreement; and shall permit a COUNTY representative or other regulatory official to monitor, assess, or evaluate CONTRACTOR's performance under this Agreement at any time, upon reasonable notice to the CONTRACTOR.

14. Independent Contractor/Employment Eligibility/Non-Discrimination:

- 14.1 The CONTRACTOR is, for purposes relating to this Agreement, an independent contractor and shall not be deemed an employee of the COUNTY. It is expressly understood and agreed that the CONTRACTOR (including its employees, agents, and subcontractors) shall in no event be entitled to any benefits to which COUNTY employees are entitled, including but not limited to overtime, any retirement benefits, worker's compensation benefits, and injury leave or other leave benefits. There shall be no employer-employee relationship between the parties; and CONTRACTOR shall hold COUNTY harmless from any and all claims that may be made against COUNTY based upon any contention by a third party that an employer-employee relationship exists by reason of this Agreement. It is further understood and agreed by the parties that CONTRACTOR in the performance of this Agreement is subject to the control or direction of COUNTY merely as to the results to be accomplished and not as to the means and methods for accomplishing the results.
- 14.2 CONTRACTOR warrants that it shall make its best effort to fully comply with all federal and state statutes and regulations regarding the employment of aliens and others and to ensure that employees performing work under this Agreement meet the citizenship or alien status requirement set forth in federal statutes and regulations. CONTRACTOR shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by federal or state statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. CONTRACTOR shall retain all such documentation for all covered employees, for the period prescribed by the law.
- 14.3 CONTRACTOR shall not discriminate in the provision of services, allocation of benefits, accommodation in facilities, or employment of personnel on the basis of ethnic group identification, race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex in the performance of this Agreement; and, to the extent they shall be found to be applicable hereto, shall comply with the provisions of the California Fair Employment and Housing Act (Gov. Code 12900 et. seq), the Federal Civil Rights Act of 1964

Licensing Solution Provider Agreement Number PSA-0001522

(P.L. 88-352), the Americans with Disabilities Act of 1990 (42 U.S.C. S1210 et seq.) and all other applicable laws or regulations.

15. Entire Agreement: This Agreement, including any attachments or exhibits, constitutes the entire agreement of the parties with respect to its subject matter and supersedes all prior and contemporaneous representations, proposals, discussions and communications, whether oral or in writing. This Agreement may be changed or modified only by a written amendment signed by authorized representatives of both parties.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute this Agreement.

COUNTY OF RIVERSIDE, a political
subdivision of the State of California

By: 
Kevin Jeffries, Chairman
Board of Supervisors

Dated: OCT 22 2019

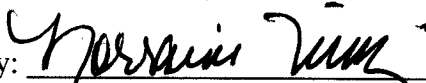
CDW Government LLC, an Illinois limited liability
company

By: 
Dario J. Bertocchi
Director Program Sales

Dated: 10 / 15 / 2019

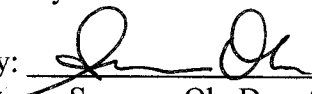
ATTEST:

Kecia Harper
Clerk of the Board

By: 
Deputy

APPROVED AS TO FORM:

Gregory P. Priamos
County Counsel

By: 
Susanna Oh, Deputy County Counsel

Licensing Solution Provider Agreement Number PSA-0001522

Exhibit A
Microsoft Enterprise license subscription and services

Line	Description	Price Level	Markup %
1	Enterprise Online Services** (including Full USLs, From SA USLs, Add-ons and Step Ups) M365 E3 and E5, Enterprise Mobility + Security E3 and E5, Office 365 Enterprise E1 or E3, Windows 10 Enterprise E3 or E5.	Level D Minus 2%	1.25
2	Enterprise Products Office 365 Pro Plus, Windows 10 Enterprise, Core CAL Suite, Enterprise CAL Suite.	Level D	1.25
3	Additional Products M365 F1, M365 E5 Compliance, M365 E5 Security, Office 365 Enterprise F1, Project Online, Visio Online Plan 1 or Plan 2, Dynamics 365, Azure, SQL Server, Windows Server, etc.	Level D	1.25
4	Server and Tools Product (applies to Server and Cloud Enrollments only) SharePoint Server, SQL Server, BizTalk Server, Visual Studio, Core Infrastructure Suites, etc.	Level D	1.25
5	All products for Select Plus Agreement No.7756479.		2.00
6	Microsoft Premier Support		1.50
7	Microsoft Unified Support Services		1.50
8	Microsoft Consulting Services		1.50

Exhibit B
License Support Provider (LSP) service rates

Line	Description	Certified Competency (Yes/No)	Hourly Rate
	Data and Artificial Intelligent		
1	Build Intelligent Apps	Yes	\$200
2	Build Intelligent Agents	Yes	\$200
3	Machine Learning	No	\$0
4	Internet of Things	Yes	\$200
5	Globally distributed data	Yes	\$200
6	OSS Databases	Yes	\$200
7	Cloud Scale Analytics	Yes	\$200
8	Data Platform Modernization to Azure	Yes	\$200
9	Windows Server on Azure	Yes	\$200
10	Security & Management	Yes	\$200
11	Datacenter Migration	Yes	\$200
12	Modern Business Intelligence	Yes	\$200
	Biz Apps		
1	Customer Service	No	\$0
2	Field Service	No	\$0
3	Marketing	No	\$0
4	Talent	No	\$0
5	Finance and Operations	No	\$0
6	Business Central	No	\$0
7	Power Apps	Yes	\$200
8	Power BI	Yes	\$200
	Apps and Infrastructure		
1	Azure Stack	Yes	\$200
2	High Performance Compute	Yes	\$200
3	Cloud Native Apps using Serverless	Yes	\$200
4	Modernize Apps	No	\$0
5	SAP on Azure	Yes	\$200
6	Linux on Azure	Yes	\$200
7	Dev Ops	Yes	\$200
8	Business Continuity & Disaster Recovery	Yes	\$200
9	Windows Server on Azure	Yes	\$200
10	Security & Management	Yes	\$200
11	Datacenter Migration	Yes	\$200

Licensing Solution Provider Agreement Number PSA-0001522

Exhibit B (cont.)

License Support Provider (LSP) service rates

Line	Description	Certified Competency (Yes/No)	Hourly Rate
	Modern Workplace		
1	User Adoption & Change Management	Yes	\$200
2	Security	Yes	\$200
3	GDPR & Compliance	Yes	\$200
4	Teamwork	Yes	\$200
5	Calling & Meetings	Yes	\$200
6	Modern Desktop	Yes	\$200
7	Office 365 Migration Assistance	Yes	\$200
7a	Mail	Yes	\$200
7b	Teams	Yes	\$200
7c	SharePoint	Yes	\$200
7d	OneDrive	Yes	\$200

Exhibit C
Microsoft LSP Participation Form

DAVE ROGERS
Assistant Chief Executive Officer
Chief Information Officer

JIM SMITH
Chief Technology Officer



JENNIFER HILBER, ACIO
Enterprise Applications Bureau
GUSTAVO VAZQUEZ, ACIO
Converged Communications Bureau
Public Safety Enterprise Communications
GIL MEJIA, ACIO
Technology Services Bureau

Microsoft LSP Participation Form
(RFQ #RIVCO-2020-RFQ-0000048 Attachment 3)

Complete this form and return to:

Attention: Rick Hai
E-mail: RHai@rivco.org

Payment should be made to:
Riverside County Information Technology
3450 14th Street, Fourth Floor
Riverside, CA 92501

County of Riverside TIN #: 95-6000930

Company Name: CDW Government LLC

Name: Robert F. Kirby

Title: President, CDW Government LLC

Address: 230 N. Milwaukee Ave.

City: Vernon Hills Illinois Zip Code: 60061 Telephone #: 312 547 2516

Fax #: 847.465.6800 Email: bobkir@cdw.com

The County of Riverside is the host of the Microsoft Master Agreement No. 8084445. All questions regarding the products and licensing should be directed to Microsoft.

By signing below, I am agreeing to pay the participation fees for each enrollment that is established by leveraging the County of Riverside Master Agreement in accordance to the schedule referenced on RFQ #RIVCO-2020-RFQ-0000048 and any subsequent contracts and / or amendments.

By signing below, I also agree that all enrollments will be submitted to Microsoft direct, to report enrollment activity and comply to the payment schedule per RFQ #RIVCO-2020-RFQ-0000048 to Riverside County Information Technology.

Please reference the remittance information above for where to send the payment. Failure to comply may result in the award being rescinded.


Signature

Robert F. Kirby
Printed Name

9/17/2019
Date

President, CDW Government LLC
Title

Exhibit D
Microsoft LSP Reporting of Active Enrollments Form

LSP Name	Company name		Start Date:	End Date:	Annual Spend	Enrollment Contact:	Enrollment Contact Email:	Enrollment Contact Tel:
RIVCO	RIVCO-20800-00x-xx/xx							
Microsoft Agreement Numbers	01E69633, 01E73134, AND NEW							
Master Enrollment	Enrollment Number:	Enrollment Entity:	Start Date:	End Date:	Annual Spend	Enrollment Contact:	Enrollment Contact Email:	Enrollment Contact Tel:
8084445	87654321	Riverside County Information Technology	1/01/12	12/31/16	\$645,000.00	John Doe	John.Doe@riverside.org	951-555-1212

Exhibit E
Master Agreement

Attached include the followings:

- 1) Signature Form
- 2) Microsoft Enterprise Agreement
- 3) Microsoft Enterprise Agreement Amendment

Microsoft Document Headersheet

** This is for informational purposes only **

MSE#:

(MSLI
Tracking
Number)

5-0000004275258

Doc Type:

Signature Form

Do not modify the formatting or spacing of this Form above this text

Subsidiary:

Country: **United States**

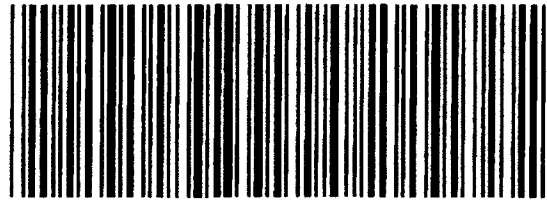
Account Manager Name / Alias:

LAR/LAD/ESA:

Insight Direct USA, Inc.

Program/Version

EA 6 2016



(Scanning Code)

ACCOUNT: County of Riverside

3

Outsourcer Name:

Business Agreement Number:

Master Agreement Number: **8084445**

Agreement Number:

Purchase Order Number:

Comments:



Program Signature Form

MBA/MBSA number

Agreement number

808444S

004-kayleed-S-04

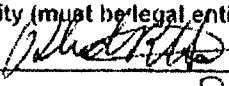
Note: Enter the applicable active numbers associated with the documents below. Microsoft requires the associated active number be indicated here, or listed below as new.

For the purposes of this form, "Customer" can mean the signing entity, Enrolled Affiliate, Government Partner, Institution, or other party entering into a volume licensing program agreement.

This signature form and all contract documents identified in the table below are entered into between the Customer and the Microsoft Affiliate signing, as of the effective date identified below.

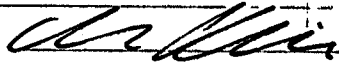
Contract Document	Number or Code
Enterprise Agreement	X20-10209
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
Amendment to Contract Documents	CTM-CPT-OPT-FWK (new)

By signing below, Customer and the Microsoft Affiliate agree that both parties (1) have received, read and understand the above contract documents, including any websites or documents incorporated by reference and any amendments and (2) agree to be bound by the terms of all such documents.

Customer
Name of Entity (must be legal entity name)* County of Riverside
Signature* 
Printed First and Last Name* Richard R. Hai
Printed Title Sr. Procurement Contract Specialist
Signature Date* 08/22/2019
Tax ID

* indicates required field

FORM APPROVED COUNTY COUNSEL
BY  8/22/19
DATE
SUSANNA N. OH

Microsoft Affiliate	
Microsoft Corporation	
Signature  Printed First and Last Name Printed Title Signature Date (date Microsoft Affiliate countersigns)	 Microsoft Microsoft Corporation AUG 23 2019 Chance Krail Duly Authorized on behalf of Microsoft Corporation
Agreement Effective Date (may be different than Microsoft's signature date)	8/23/2019

Optional 2nd Customer signature or Outsourcer signature (if applicable)

Customer
Name of Entity (must be legal entity name)* Signature* Printed First and Last Name* Printed Title Signature Date*

* indicates required field

Outsourcer
Name of Entity (must be legal entity name)* Signature* Printed First and Last Name* Printed Title Signature Date*

* indicates required field

If Customer requires physical media, additional contacts, or is reporting multiple previous Enrollments, include the appropriate form(s) with this signature form.

After this signature form is signed by the Customer, send it and the Contract Documents to Customer's channel partner or Microsoft account manager, who must submit them to the following address. When the signature form is fully executed by Microsoft, Customer will receive a confirmation copy.

Microsoft Corporation
 Dept. 551, Volume Licensing
 6100 Neil Road, Suite 210
 Reno, Nevada 89511-1137
 USA

Microsoft Document Headersheet

** This is for informational purposes only **

MSE#:

(MSLI
Tracking
Number)

5-0000004275258

Doc Type:

[REDACTED] Agreement

Do not modify the formatting or spacing of this Form above this text

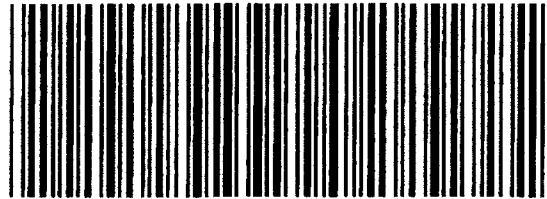
Subsidiary:

Country: **United States**

Account Manager Name / Alias:

LAR/LAD/ESA:

Insight Direct USA, Inc.



(Scanning Code)

Program/Version

EA 6 2016

ACCOUNT: County of Riverside

Outsourcer Name:

Business Agreement Number:

Master Agreement Number: **8084445**

Agreement Number:

Purchase Order Number:

15

Comments:

Enterprise Agreement

State and Local

Not for Use with Microsoft Business Agreement or Microsoft Business and Services Agreement

This Microsoft Enterprise Agreement ("Agreement") is entered into between the entities identified on the signature form.

Effective date. The effective date of this Agreement is the earliest effective date of any Enrollment entered into under this Agreement or the date Microsoft accepts this Agreement, whichever is earlier.

This Agreement consists of (1) these Agreement terms and conditions, including any amendments and the signature form and all attachments identified therein, (2) the Product Terms applicable to Products licensed under this Agreement, (3) the Online Services Terms, (4) any Affiliate Enrollment entered into under this Agreement, and (5) any order submitted under this Agreement.

Please note: Documents referenced in this Agreement but not attached to the signature form may be found at <http://www.microsoft.com/licensing/contracts> and are incorporated in this Agreement by reference, including the Product Terms and Use Rights. These documents may contain additional terms and conditions for Products licensed under this Agreement and may be changed from time to time. Customer should review such documents carefully, both at the time of signing and periodically thereafter, and fully understand all terms and conditions applicable to Products licensed.

Terms and Conditions

1. Definitions.

"Affiliate" means

- a. with regard to Customer,
 - (i) any government agency, department, office, instrumentality, division, unit or other entity of the state or local government that is supervised by or is part of Customer, or which supervises Customer or of which Customer is a part, or which is under common supervision with Customer;
 - (ii) any county, borough, commonwealth, city, municipality, town, township, special purpose district, or other similar type of governmental instrumentality established by the laws of Customer's state and located within Customer's state jurisdiction and geographic boundaries; and
 - (iii) any other entity in Customer's state expressly authorized by the laws of Customer's state to purchase under state contracts; provided that a state and its Affiliates shall not, for purposes of this definition, be considered to be Affiliates of the federal government and its Affiliates; and
- b. with regard to Microsoft, any legal entity that Microsoft owns, that owns Microsoft, or that is under common ownership with Microsoft.

"Customer" means the legal entity that has entered into this Agreement with Microsoft.

"Customer Data" means all data, including all text, sound, software, image, or video files that are provided to Microsoft by, or on behalf of, an Enrolled Affiliate and its Affiliates through use of Online Services.

"day" means a calendar day, except for references that specify "business day".

"Enrolled Affiliate" means an entity, either Customer or any one of Customer's Affiliates that has entered into an Enrollment under this Agreement.

"Enrollment" means the document that an Enrolled Affiliate submits under this Agreement to place orders for Products.

"Enterprise" means an Enrolled Affiliate and the Affiliates for which it is responsible and chooses on its Enrollment to include in its enterprise.

"Fixes" means Product fixes, modifications or enhancements, or their derivatives, that Microsoft either releases generally (such as Product service packs) or provides to Customer to address a specific issue.

"License" means the right to download, install, access and use a Product. For certain Products, a License may be available on a fixed term or subscription basis ("Subscription License"). Licenses for Online Services will be considered Subscription Licenses.

"Microsoft" means the Microsoft Affiliate that has entered into this Agreement or an Enrollment and its Affiliates, as appropriate.

"Online Services" means the Microsoft-hosted services identified as Online Services in the Product Terms.

"Online Services Terms" means the additional terms that apply to Customer's use of Online Services published on the Volume Licensing Site and updated from time to time.

"Product" means all products identified in the Product Terms, such as all Software, Online Services and other web-based services, including pre-release or beta versions.

"Product Terms" means the document that provides information about Microsoft Products and Professional Services available through volume licensing. The Product Terms document is published on the Volume Licensing Site and is updated from time to time.

"SLA" means Service Level Agreement, which specifies the minimum service level for Online Services and is published on the Volume Licensing Site.

"Software" means licensed copies of Microsoft software identified on the Product Terms. Software does not include Online Services, but Software may be part of an Online Service.

"Software Assurance" is an offering by Microsoft that provides new version rights and other benefits for Products as further described in the Product Terms.

"Trade Secret" means information that is not generally known or readily ascertainable to the public, has economic value as a result, and has been subject to reasonable steps under the circumstances to maintain its secrecy.

"use" or "run" means to copy, install, use, access, display, run or otherwise interact.

"Use Rights" means the use rights or terms of service for each Product published on the Volume Licensing Site and updated from time to time. The Use Rights supersede the terms of any end user license agreement that accompanies a Product. The Use Rights for Software are published by Microsoft in the Product Terms. The Use Rights for Online Services are published in the Online Services Terms.

"Volume Licensing Site" means <http://www.microsoft.com/licensing/contracts> or a successor site.

2. How the Enterprise program works.

- a. **General.** The Enterprise program consists of the terms and conditions on which an Enrolled Affiliate may acquire Product Licenses. Under the Enterprise program, Customer and its Affiliates may order Licenses for Products by entering into Enrollments.
- b. **Enrollments.** The Enterprise program gives Customer and/or its Affiliates the ability to enter into one or more Enrollments to order Products. Subscription Enrollments may be available for some of these Enrollments. Notwithstanding any other provision of this Agreement, only Enrolled Affiliates identified in an Enrollment will be responsible for complying with the terms of that Enrollment, including the terms of this Agreement incorporated by reference in that Enrollment.

- c. **Licenses.** The types of Licenses available are (1) Licenses obtained under Software Assurance (L&SA), and (2) Subscription Licenses. These License types, as well as additional License Types, are further described in the Product List.

3. **Licenses for Products.**

- a. **License Grant.** Microsoft grants the Enterprise a non-exclusive, worldwide and limited right to download, install and use software Products, and to access and use the Online Services, each in the quantity ordered under an Enrollment. The rights granted are subject to the terms of this Agreement, the Use Rights and the Product Terms. Microsoft reserves all rights not expressly granted in this Agreement.
- b. **Duration of Licenses.** Subscription Licenses and most Software Assurance rights are temporary and expire when the applicable Enrollment is terminated or expires, unless the Enrolled Affiliate exercises a buy-out option, which is available for some Subscription Licenses. Except as otherwise noted in the applicable Enrollment or Use Rights, all other Licenses become perpetual only when all payments for that License have been made and the initial Enrollment term has expired.
- c. **Applicable Use Rights.**
 - (i) **Products (other than Online Services).** The Use Rights in effect on the effective date of the applicable Enrollment term will apply to Enterprise's use of the version of each Product that is current at the time. For future versions and new Products, the Use Rights in effect when those versions and Products are first released will apply. Changes Microsoft makes to the Use Rights for a particular version will not apply unless the Enrolled Affiliate chooses to have those changes apply. The Use Rights applicable to perpetual Licenses that were acquired under a previous agreement or Enrollment are determined by the Agreement or Enrollment under which they were acquired. Renewal of Software Assurance does not change which Use Rights apply to those Licenses.
 - (ii) **Online Services.** For Online Services, the Use Rights in effect on the subscription start date will apply for the subscription term as defined in the Product Terms.
- d. **Downgrade rights.** Enrolled Affiliate may use an earlier version of a Product other than Online Services than the version that is current on the effective date of the Enrollment. For Licenses acquired in the current Enrollment term, the Use Rights for the current version apply to the use of the earlier version. If the earlier Product version includes features that are not in the new version, then the Use Rights applicable to the earlier version apply with respect to those features.
- e. **New Version Rights under Software Assurance.** Enrolled Affiliate must order and maintain continuous Software Assurance coverage for each License ordered. With Software Assurance coverage, Enterprise automatically has the right to use a new version of a licensed Product as soon as it is released, even if Enrolled Affiliate chooses not to use the new version immediately.
 - (i) Except as otherwise permitted under an Enrollment, use of the new version will be subject to the new version's Use Rights.
 - (ii) If the License for the earlier version of the Product is perpetual at the time the new version is released, the License for the new version will also be perpetual. Perpetual Licenses obtained through Software Assurance replace any perpetual Licenses for the earlier version.
- f. **License confirmation.** This Agreement, the applicable Enrollment, Enrolled Affiliate's order confirmation, and any documentation evidencing transfers of perpetual Licenses, together with proof of payment, will be Enrolled Affiliate's evidence of all Licenses obtained under an Enrollment.

- g. **Reorganizations, consolidations and privatizations.** If the number of Licenses covered by an Enrollment changes by more than ten percent as a result of (1) a reorganization, consolidation or privatization of an entity or an operating division, (2) a privatization of an Affiliate or an operating division of Enrolled Affiliate or any of its Affiliates, or (3) a consolidation including a merger with a third party that has an existing agreement or Enrollment, Microsoft will work with Enrolled Affiliate in good faith to determine how to accommodate its changed circumstances in the context of this Agreement.

4. Making copies of Products and re-imaging rights.

- a. **General.** Enrolled Affiliate may make as many copies of Products, as it needs to distribute them within the Enterprise. Copies must be true and complete (including copyright and trademark notices) from master copies obtained from a Microsoft approved fulfillment source. Enrolled Affiliate may use a third party to make these copies, but Enrolled Affiliate agrees it will be responsible for any third party's actions. Enrolled Affiliate agrees to make reasonable efforts to notify its employees, agents, and any other individuals who use the Products that the Products are licensed from Microsoft and subject to the terms of this Agreement.
- b. **Copies for training/evaluation and back-up.** For all Products other than Online Services, Enrolled Affiliate may: (1) use up to 20 complimentary copies of any licensed Product in a dedicated training facility on its premises for purposes of training on that particular Product, (2) use up to 10 complimentary copies of any Products for a 60-day evaluation period, and (3) use one complimentary copy of any licensed Product for back-up or archival purposes for each of its distinct geographic locations. Trials for Online Services may be available if specified in the Use Rights.
- c. **Right to re-image.** In certain cases, re-imaging is permitted using the Product media. If the Microsoft Product is licensed (1) from an original equipment manufacturer (OEM), (2) as a full packaged Product through a retail source, or (3) under another Microsoft program, then media provided under this Agreement may generally be used to create images for use in place of copies provided through that separate source. This right is conditional upon the following:
- (i) Separate Licenses must be acquired from the separate source for each Product that is re-imaged.
 - (ii) The Product, language, version, and components of the copies made must be identical to the Product, language, version, and all components of the copies they replace and the number of copies or instances of the re-imaged Product permitted remains the same.
 - (iii) Except for copies of an operating system and copies of Products licensed under another Microsoft program, the Product type (e.g., Upgrade or full License) re-imaged must be identical to the Product type licensed from the separate source.
 - (iv) Enrolled Affiliate must adhere to any Product-specific processes or requirements for re-imaging identified in the Product Terms.

Re-imaged Products remain subject to the terms and use rights of the License acquired from the separate source. This subsection does not create or extend any Microsoft warranty or support obligation.

5. Transferring and reassigning Licenses.

- a. **License transfers.** License transfers are not permitted, except that Customer or an Enrolled Affiliate may transfer only fully-paid perpetual Licenses to:
- (i) an Affiliate, or
 - (ii) a third party solely in connection with the transfer of hardware or employees to whom the Licenses have been assigned as part of (A) a privatization of an Affiliate or agency or of an

operating division of Enrolled Affiliate or an Affiliate. (B) a reorganization, or (C) a consolidation.

Upon such transfer, Customer or Enrolled Affiliate must uninstall and discontinue using the licensed Product and render any copies unusable.

- b. **Notification of License Transfer.** Enrolled Affiliate must notify Microsoft of a License transfer by completing a license transfer form, which can be obtained from <http://www.microsoft.com/licensing/contracts> and sending the completed form to Microsoft before the License transfer. No License transfer will be valid unless Enrolled Affiliate provides to the transferee, and the transferee accepts in writing, documents sufficient to enable the transferee to ascertain the scope, purpose and limitations of the rights granted by Microsoft under the licenses being transferred (including the applicable Use Rights, use and transfer restrictions, warranties and limitations of liability). Any License transfer not made in compliance with this section will be void.
- c. **Internal Assignment of Licenses and Software Assurance.** Licenses and Software Assurance must be assigned to a single user or device within the Enterprise. Licenses and Software Assurance may be reassigned within the Enterprise as described in the Use Rights.

6. **Term and termination.**

- a. **Term.** The term of this Agreement will be 36 full calendar months from the effective date unless terminated by either party as described below. Each Enrollment will have the term provided in that Enrollment.
- b. **Termination without cause.** Either party may terminate this Agreement, without cause, upon 60 days' written notice. In the event of termination, new Enrollments will not be accepted, but any existing Enrollment will continue for the term of such Enrollment and will continue to be governed by this Agreement.
- c. **Mid-term termination for non-appropriation of Funds.** Enrolled Affiliate may terminate this Agreement or an Enrollment without liability, penalty or further obligation to make payments if funds to make payments under the Agreement or Enrollment are not appropriated or allocated by the Enrolled Affiliate for such purpose.
- d. **Termination for cause.** Without limiting any other remedies it may have, either party may terminate an Enrollment if the other party materially breaches its obligations under this Agreement, including any obligation to submit orders or pay invoices. Except where the breach is by its nature not curable within 30 days, the terminating party must give the other party 30 days' notice of its intent to terminate and an opportunity to cure the breach.

If Microsoft gives such notice to an Enrolled Affiliate, Microsoft also will give Customer a copy of that notice and Customer agrees to help resolve the breach. If the breach affects other Enrollments and cannot be resolved between Microsoft and Enrolled Affiliate, together with Customer's help, within a reasonable period of time, Microsoft may terminate this Agreement and all Enrollments under it. If an Enrolled Affiliate ceases to be Customer's Affiliate, it must promptly notify Microsoft, and Microsoft may terminate the former Affiliate's Enrollment. If an Enrolled Affiliate terminates its Enrollment as a result of a breach by Microsoft, or if Microsoft terminates an Enrollment because Enrolled Affiliate ceases to be Customer's Affiliate, then Enrolled Affiliate will have the early termination rights described in the Enrollment.

- e. **Early termination.** If (1) an Enrolled Affiliate terminates its Enrollment as a result of a breach by Microsoft, or (2) if Microsoft terminates an Enrollment because the Enrolled Affiliate has ceased to be an Affiliate of Customer, or (3) Enrolled Affiliate terminates an Enrollment for non-appropriation of funds, or (4) Microsoft terminates an Enrollment for non-payment due to non-appropriation of funds, then the Enrolled Affiliate will have the following options:

- (i) It may immediately pay the total remaining amount due, including all installments, in which case, the Enrolled Affiliate will have perpetual rights for all Licenses it has ordered; or

(ii) It may pay only amounts due as of the termination date, in which case the Enrolled Affiliate will have perpetual Licenses for:

- 1) all copies of Products (including the latest version of Products ordered under SA coverage in the current term) for which payment has been made in full, and
- 2) the number of copies of Products it has ordered (including the latest version of Products ordered under Software Assurance coverage in current term) that is proportional to the total of installment payments paid versus total amounts due (paid and payable) if the early termination had not occurred.

(iii) In the case of early termination under subscription Enrollments, Enrolled Affiliate will have the following options:

- 1) For eligible Products, Enrolled Affiliate may obtain perpetual Licenses as described in the section of the Enrollment titled "Buy-out option," provided that Microsoft receives the buy-out order for those Licenses within 60 days after Enrolled Affiliate provides notice of termination.
- 2) In the event of a breach by Microsoft, if Customer chooses not to exercise a buy-out option, Microsoft will issue Enrolled Affiliate a credit for any amount paid in advance for Subscription Licenses that the Enterprise will not be able to use to do the termination of the Enrollment.

Nothing in this section shall affect perpetual License rights acquired either in a separate agreement or in a prior term of the terminated Enrollment.

f. Effect of termination or expiration. When an Enrollment expires or is terminated,

- (i) Enrolled Affiliate must order Licenses for all copies of Products it has run for which it has not previously submitted an order. Any and all unpaid payments for any order of any kind remain due and payable. Except as provided in the subsection titled "Early termination," all unpaid payments for Licenses immediately become due and payable.
- (ii) Enrolled Affiliate's right to Software Assurance benefits under this Agreement ends if it does not renew Software Assurance.

g. Modification or termination of an Online Service for regulatory reasons. Microsoft may modify or terminate an Online Service where there is any current or future government requirement or obligation that: (1) subjects Microsoft to any regulation or requirement not generally applicable to businesses operating in the jurisdiction; (2) presents a hardship for Microsoft to continue operating the Online Service without modification; and/or (3) causes Microsoft to believe these terms or the Online Service may conflict with any such requirement or obligation.

h. Program updates. Microsoft may make changes to this program that will make it necessary for Customer and its Enrolled Affiliates to enter into new agreements and Enrollments at the time of an Enrollment renewal.

7. Use, ownership, rights, and restrictions.

- a. **Products.** Unless otherwise specified in a supplemental agreement, use of any Product is governed by the Use Rights specific to each Product and version and by the terms of the applicable supplemental agreement.
- b. **Fixes.** Each Fix is licensed under the same terms as the Product to which it applies. If a Fix is not provided for a specific Product, any use rights Microsoft provides with the Fix will apply.
- c. **Non-Microsoft software and technology.** Enrolled Affiliate is solely responsible for any non-Microsoft software or technology that it installs or uses with the Products or Fixes.

- d. **Restrictions.** Enrolled Affiliate must not (and is not licensed to) (1) reverse engineer, decompile, or disassemble any Product or Fix; (2) install or use non-Microsoft software or technology in any way that would subject Microsoft's intellectual property or technology to any other license terms; or (3) work around any technical limitations in a Product or Fix or restrictions in Product documentation. Customer must not (and is not licensed to) (i) separate and run parts of a Product or Fix on more than one device, upgrade or downgrade parts of a Product or Fix at different times, or transfer parts of a Product or Fix separately; or (ii) distribute, sublicense, rent, lease, lend any Products or Fixes, in whole or in part, or use them to offer hosting services to a third party.
- e. **Reservation of rights.** Products and Fixes are protected by copyright and other intellectual property rights laws and international treaties. Microsoft reserves all rights not expressly granted in this agreement. No rights will be granted or implied by waiver or estoppel. Rights to access or use Software on a device do not give Customer any right to implement Microsoft patents or other Microsoft intellectual property in the device itself or in any other software or devices.

8. Confidentiality.

"Confidential Information" is non-public information that is designated "confidential" or that a reasonable person should understand is confidential, including Customer Data. Confidential Information does not include information that (a) becomes publicly available without a breach of this agreement, (b) the receiving party received lawfully from another source without a confidentiality obligation, (c) is independently developed, or (d) is a comment or suggestion volunteered about the other party's business, products or services.

Each party will take reasonable steps to protect the other's Confidential Information and will use the other party's Confidential Information only for purposes of the parties' business relationship. Neither party will disclose that Confidential Information to third parties, except to its employees, Affiliates, contractors, advisors and consultants ("Representatives") and then only on a need-to-know basis under nondisclosure obligations at least as protective as this agreement. Each party remains responsible for the use of the Confidential Information by its Representatives and, in the event of discovery of any unauthorized use or disclosure, must promptly notify the other party.

A party may disclose the other's Confidential Information if required by law, but only after it notifies the other party (if legally permissible) to enable the other party to seek a protective order.

Neither party is required to restrict work assignments of its Representatives who have had access to Confidential Information. Each party agrees that the use of information retained in Representatives' unaided memories in the development or deployment of the parties' respective products or services does not create liability under this Agreement or trade secret law, and each party agrees to limit what it discloses to the other accordingly.

These obligations apply (i) for Customer Data until it is deleted from the Online Services, and (ii) for all other Confidential Information, for a period of five years after a party receives the Confidential Information.

9. Privacy and compliance with laws.

- a. Enrolled Affiliate consents to the processing of personal information by Microsoft and its agents to facilitate the subject matter of this Agreement. Enrolled Affiliate will obtain all required consents from third parties under applicable privacy and data protection law before providing personal information to Microsoft.
- b. Personal information collected under this agreement (i) may be transferred, stored and processed in the United States or any other country in which Microsoft or its service providers maintain facilities and (ii) will be subject to the privacy terms specified in the Use Rights. Microsoft will abide by the requirements of European Economic Area and Swiss data protection

law regarding the collection, use, transfer, retention, and other processing of personal data from the European Economic Area and Switzerland.

- c. **U.S. export.** Products and Fixes are subject to U.S. export jurisdiction. Enrolled Affiliate must comply with all applicable international and national laws, including the U.S. Export Administration Regulations and International Traffic in Arms Regulations, and end-user, end use and destination restrictions issued by U.S. and other governments related to Microsoft products, services and technologies.

10. Warranties.

a. Limited warranties and remedies.

- (i) **Software.** Microsoft warrants that each version of the Software will perform substantially as described in the applicable Product documentation for one year from the date the Enterprise is first licensed for that version. If it does not and the Enterprise notifies Microsoft within the warranty term, then Microsoft will, at its option (1) return the price Enrolled Affiliate paid for the Software license, or (2) repair or replace the Software.
- (ii) **Online Services.** Microsoft warrants that each Online Service will perform in accordance with the applicable SLA during the Enterprise's use. The Enterprise's remedies for breach of this warranty are in the SLA.

The remedies above are the Enterprise's sole remedies for breach of the warranties in this section. Customer waives any breach of warranty claims not made during the warranty period.

- b. **Exclusions.** The warranties in this agreement do not apply to problems caused by accident, abuse, or use in a manner inconsistent with this Agreement, including failure to meet minimum system requirements. These warranties do not apply to free, trial, pre-release, or beta products, or to components of Products that Enrolled Affiliate is permitted to redistribute.
- c. **Disclaimer.** Except for the limited warranties above, Microsoft provides no other warranties or conditions and disclaims any other express, implied, or statutory warranties, including warranties of quality, title, non-infringement, merchantability, and fitness for a particular purpose.

11. Defense of third party claims.

The parties will defend each other against the third-party claims described in this section and will pay the amount of any resulting adverse final judgment or approved settlement, but only if the defending party is promptly notified in writing of the claim and has the right to control the defense and any settlement of it. The party being defended must provide the defending party with all requested assistance, information, and authority. The defending party will reimburse the other party for reasonable out-of-pocket expenses it incurs in providing assistance. This section describes the parties' sole remedies and entire liability for such claims.

- a. **By Microsoft.** Microsoft will defend Enrolled Affiliate against any third-party claim to the extent it alleges that a Product or Fix made available by Microsoft for a fee and used within the scope of the license granted (unmodified from the form provided by Microsoft and not combined with anything else) misappropriates a trade secret or directly infringes a patent, copyright, trademark or other proprietary right of a third party. If Microsoft is unable to resolve a claim of infringement under commercially reasonable terms, it may, at its option, either (1) modify or replace the Product or Fix with a functional equivalent; or (2) terminate Enrolled Affiliate's license and refund any prepaid license fees (less depreciation on a five-year, straight-line basis) for perpetual licenses and any amount paid for Online Services for any usage period after the termination date. Microsoft will not be liable for any claims or damages due to Enrolled Affiliate's continued use of a Product or Fix after being notified to stop due to a third-party claim.
- b. **By Enrolled Affiliate.** To the extent permitted by applicable law, Enrolled Affiliate will defend Microsoft against any third-party claim to the extent it alleges that: (1) any Customer Data or

non-Microsoft software hosted in an Online Service by Microsoft on Enrolled Affiliate's behalf misappropriates a trade secret or directly infringes a patent, copyright, trademark, or other proprietary right of a third party; or (2) Enrolled Affiliate's use of any Product or Fix, alone or in combination with anything else, violates the law or damages a third party.

12. Limitation of liability.

For each Product, each party's maximum, aggregate liability to the other under this Agreement is limited to direct damages finally awarded in an amount not to exceed the amounts Enrolled Affiliate was required to pay for the applicable Products during the term of this Agreement, subject to the following:

- a. **Online Services.** For Online Services, Microsoft's maximum liability to Enrolled Affiliate for any incident giving rise to a claim will not exceed the amount Enrolled Affiliate paid for the Online Service during the 12 months before the incident.
- b. **Free Products and Distributable Code.** For Products provided free of charge and code that Enrolled Affiliate is authorized to redistribute to third parties without separate payment to Microsoft, Microsoft's liability is limited to direct damages finally awarded up to US\$5,000.
- c. **Exclusions.** In no event will either party be liable for indirect, incidental, special, punitive, or consequential damages, or for loss of use, loss of business information, loss of revenue, or interruption of business, however caused or on any theory of liability.
- d. **Exceptions.** No limitation or exclusions will apply to liability arising out of either party's (1) confidentiality obligations (except for all liability related to Customer Data, which will remain subject to the limitations and exclusions above); (2) defense obligations; or (3) violation of the other party's intellectual property rights.

13. Verifying compliance.

- a. **Right to verify compliance.** Enrolled Affiliate must keep records relating to all use and distribution of Products by Enrolled Affiliate and its Affiliates. Microsoft has the right, at its expense, to the extent permitted by applicable law, to verify compliance with the Product's license terms. Enrolled Affiliate must promptly provide the independent auditor with any information the auditor reasonably requests in furtherance of the verification, including access to systems running the Products and evidence of Licenses for Products Enrolled Affiliate hosts, sublicenses, or distributes to third parties. Enrolled Affiliate agrees to complete Microsoft's self-audit process, which Microsoft may require as an alternative to a third party audit.
- b. **Remedies for non-compliance.** If verification or self-audit reveals any unlicensed use or distribution, then within 30 days, (1) Enrolled Affiliate must order sufficient Licenses to cover that use or distribution, and (2) if unlicensed use or distribution is 5% or more, Enrolled Affiliate must reimburse Microsoft for the cost Microsoft has incurred in verification and acquire the necessary additional licenses at 125% of the price based on the then-current price list and Enrolled Affiliate price level. The unlicensed use percentage is based on the total number of licenses purchased compared to actual install base. If there is no unlicensed use, Microsoft will not subject Enrolled Affiliate to another verification for at least one year. By exercising the rights and procedures described above, Microsoft does not waive its rights to enforce this Agreement or to protect its intellectual property by any other means permitted by law.
- c. **Verification process.** Microsoft will notify Enrolled Affiliate at least 30 days in advance of its intent to verify Enrolled Affiliate's compliance with the license terms for the Products Enrolled Affiliate and its Affiliates use or distribute. Microsoft will engage an independent auditor, which will be subject to a confidentiality obligation. Any information collected in the self-audit will be used solely for purposes of determining compliance. This verification will take place during normal business hours and in a manner that does not interfere unreasonably with Enrolled Affiliate's operations.

14. *Miscellaneous.*

- a. **Use of contractors.** Microsoft may use contractors to perform services, but will be responsible for their performance subject to the terms of this Agreement.
- b. **Microsoft as independent contractor.** The parties are independent contractors. Enrolled Affiliate and Microsoft each may develop products independently without using the other's Confidential Information.
- c. **Notices.** Notices to Microsoft must be sent to the address on the signature form. Notices must be in writing and will be treated as delivered on the date shown on the return receipt or on the courier or fax confirmation of delivery. Microsoft may provide information to Enrolled Affiliate about upcoming ordering deadlines, services, and subscription information in electronic form, including by email to contacts provided by Enrolled Affiliate. Emails will be treated as delivered on the transmission date.
- d. **Agreement not exclusive.** Customer is free to enter into agreements to license, use or promote non-Microsoft products.
- e. **Amendments.** Any amendment to this Agreement must be executed by both parties, except that Microsoft may change the Product Terms and the Use Rights from time to time in accordance with the terms of this Agreement. Any conflicting terms and conditions contained in an Enrolled Affiliate's purchase order will not apply. Microsoft may require Customer to sign a new agreement or an amendment before an Enrolled Affiliate enters into an Enrollment under this agreement.
- f. **Assignment.** Either party may assign this Agreement to an Affiliate, but must notify the other party in writing of the assignment. Any other proposed assignment must be approved by the non-assigning party in writing. Assignment will not relieve the assigning party of its obligations under the assigned agreement. Any attempted assignment without required approval will be void.
- g. **Applicable law; dispute resolution.** The terms of this Agreement will be governed by the laws of Customer's state, without giving effect to its conflict of laws. Disputes relating to this Agreement will be subject to applicable dispute resolution laws of Customer's state.
- h. **Severability.** If any provision in this agreement is held to be unenforceable, the balance of the agreement will remain in full force and effect.
- i. **Waiver.** Failure to enforce any provision of this agreement will not constitute a waiver. Any waiver must be in writing and signed by the waiving party.
- j. **No third-party beneficiaries.** This Agreement does not create any third-party beneficiary rights.
- k. **Survival.** All provisions survive termination or expiration of this Agreement except those requiring performance only during the term of the Agreement.
- l. **Management and Reporting.** Customer and/or Enrolled Affiliate may manage account details (e.g., contacts, orders, Licenses, software downloads) on Microsoft's Volume Licensing Service Center ("VLSC") web site (or successor site) at: <https://www.microsoft.com/licensing/servicecenter>. Upon the effective date of this Agreement and any Enrollments, the contact(s) identified for this purpose will be provided access to this site and may authorize additional users and contacts.
- m. **Order of precedence.** In the case of a conflict between any documents in this Agreement that is not expressly resolved in those documents, their terms will control in the following order from highest to lowest priority: (1) this Enterprise Agreement, (2) any Enrollment, (3) the Product Terms, (4) the Online Services Terms, (5) orders submitted under this Agreement, and (6) any other documents in this Agreement. Terms in an amendment control over the amended document and any prior amendments concerning the same subject matter.

- n. **Free Products.** It is Microsoft's intent that the terms of this Agreement and the Use Rights be in compliance with all applicable federal law and regulations. Any free Product provided to Enrolled Affiliate is for the sole use and benefit of the Enrolled Affiliate, and is not provided for use by or personal benefit of any specific government employee.
- o. **Voluntary Product Accessibility Templates.** Microsoft supports the government's obligation to provide accessible technologies to its citizens with disabilities as required by Section 508 of the Rehabilitation Act of 1973, and its state law counterparts. The Voluntary Product Accessibility Templates ("VPATs") for the Microsoft technologies used in providing the Online Services can be found at Microsoft's VPAT page. Further information regarding Microsoft's commitment to accessibility can be found at <http://www.microsoft.com/enable>.
- p. **Natural disaster.** In the event of a "natural disaster," Microsoft may provide additional assistance or rights by posting them on <http://www.microsoft.com> at such time.
- q. **Copyright violation.** Except as set forth in the section above entitled "Transferring and reassigning Licenses", the Enrolled Affiliate agrees to pay for, and comply with the terms of this Agreement and the Use Rights, for the Products it uses. Except to the extent Enrolled Affiliate is licensed under this Agreement, it will be responsible for its breach of this contract and violation of Microsoft's copyright in the Products, including payment of License fees specified in this Agreement for unlicensed use.

Supplemental Contact Information Form

This form can be used in combination with MBSA, Agreement, and Enrollment/Registration. However, a separate form must be submitted for each enrollment/registration, when more than one is submitted on a signature form. For the purposes of this form, "entity" can mean the signing entity, Customer, Enrolled Affiliate, Government Partner, Institution, or other party entering into a volume licensing program agreement. Primary and Notices contacts in this form will not apply to enrollments or registrations.

This form applies to:

- ☐ MBSA
☒ Agreement
☐ Enrollment/Affiliate Registration Form

Insert primary entity name if more than one Enrollment/Registration Form is submitted

Contact information.

Each party will notify the other in writing if any of the information in the following contact information page(s) changes. The asterisks (*) indicate required fields; if the entity chooses to designate other contact types, the same required fields must be completed for each section. By providing contact information, entity consents to its use for purposes of administering the Enrollment by Microsoft and other parties that help Microsoft administer this Enrollment. The personal information provided in connection with this agreement will be used and protected according to the privacy statement available at <https://licensing.microsoft.com>.

1. Additional notices contact.

This contact receives all notices that are sent from Microsoft. No online access is granted to this individual.

Name of entity* County of Riverside
 Contact name*: First Regina Last Funderburk
 Contact email address* RFunderburk@rivco.org
 Street address* 3450 14th Street, 4th Floor
 City* Riverside State/Province* California Postal code* 92501-3861
 Country* USA

Phone* 951-955-2265 Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

2. Software Assurance manager.

This contact will receive online permissions to manage the Software Assurance benefits under the Enrollment or Registration.

Name of entity* County of Riverside
 Contact name*: First Regina Last Funderburk
 Contact email address* RFunderburk@rivco.org
 Street address* 3450 14th Street, 4th Floor
 City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-2265 Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

3. Subscriptions manager.

This contact will assign MSDN, Expression, and TechNet Plus subscription licenses to the individual subscribers under this Enrollment or Registration. Assignment of the subscription licenses is necessary for access to any of the online benefits, such as subscription downloads. This contact will also manage any complimentary or additional media purchases related to these subscriptions.

Name of entity* County of Riverside

Contact name*: First Regina Last Funderburk

Contact email address* RFunderburk@rivco.org

Street address* 3450 14th Street, 4th Floor

City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-2265 Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

4. Online services manager.

This contact will be provided online permissions to manage the online services ordered under the Enrollment or Registration.

Name of entity* County of Riverside

Contact name*: First Luis Last Flores

Contact email address* LFFlores@rivco.org

Street address* 3450 14th Street, 4th Floor

City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-8114 Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

5. Customer Support Manager (CSM).

This person is designated as the Customer Support Manager (CSM) for support-related activities.

Name of entity* County of Riverside

Contact name*: First Luis Last Flores

Contact email address* LFFlores@rivco.org

Street address* 3450 14th Street, 4th Floor

City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-8114 Fax

6. Primary contact information.

An individual from inside the organization must serve as the primary contact. This contact receives online administrator permissions and may grant online access to others. This contact also receives all notices unless Microsoft is provided written notice of a change.

Name of entity* County of Riverside

Contact name*: First Jim Last Smith
Contact email address* jimsmith@rivco.org
Street address* 3450 14th Street, 4th Floor
City* Riverside State/Province* CA Postal code* 92501-3861
Country* US
Phone* 951-231-5909 Fax

7. Notices contact and online administrator information.

This individual receives online administrator permissions and may grant online access to others. This contact also receives all notices.

☒ Same as primary contact

Name of entity*

Contact name*: First Last

Contact email address*

Street address*

City* State/Province* Postal code*

Country*

Phone* Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

Microsoft Document Headersheet

** This is for informational purposes only **

MSE#:

(MSLI
Tracking
Number)

5-0000004275258

Doc Type:

Amendments

Do not modify the formatting or spacing of this Form above this text

Subsidiary:

Country:

United States

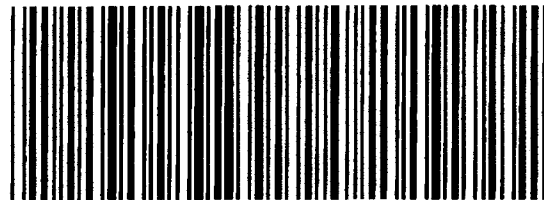
Account Manager Name / Alias:

LAR/LAD/ESA:

Insight Direct USA, Inc.

Program/Version

EA 6 2016



(Scanning Code)

ACCOUNT: County of Riverside

Outsourcer Name:

Business Agreement Number:

Master Agreement Number: **8084445**

Agreement Number:

Purchase Order Number:

3

Comments:

Amendment to Contract Documents

Agreement Number

8084445

004-kayleed-S-04

This amendment ("Amendment") is entered into between the parties identified on the attached program signature form. It amends the Enrollment or Agreement identified above. All terms used but not defined in this Amendment will have the same meanings provided in that Enrollment or Agreement.

Enterprise Agreement Custom Terms CTM

1. Section 6a, "Term", is hereby amended and restated as follows:
 - a. **Term.** The term of this Agreement will remain in effect unless terminated by either party as described below. Each Enrollment will have the term provided in that Enrollment.
2. The pricing that Microsoft will offer Enrolled Affiliate's Reseller for Enrollments effective between November 1, 2019 through October 31, 2021, and that will apply for the entire initial term of such Enrollments, is as follows:

Product	Price Level	Examples include but are not limited to the following*:
Enterprise Online Services** (including Full USLs, from SA USLs, Add-ons and Step Ups)	Level D minus 2%	M365 E3 and E5, Enterprise Mobility + Security E3 and E5, Office 365 Enterprise E1 or E3, Windows 10 Enterprise E3 or E5
Enterprise Products	Level D	Office 365 Pro Plus, Windows 10 Enterprise, Core CAL Suite, Enterprise CAL Suite
Additional Products	Level D	M365 F1, M365 E5 Compliance, M365 E5 Security, Office 365 Enterprise F1, Project Online, Visio Online Plan 1 or Plan 2, Dynamics 365, Azure, SQL Server, Windows Server, etc.
Server and Tools Product (applies to Server and Cloud Enrollments only)	Level D	SharePoint Server, SQL Server, BizTalk Server, Visual Studio, Core Infrastructure Suites, etc.

* The examples include online services that are available in either the commercial or government cloud offerings.

**Qualifying Enterprise Online Services are identified in the Product Terms with the cell value of "EO" in the tables for "Program Availability". The scope of Enterprise Online Services is subject to change as Enterprise Online Services are added, updated/revised or removed from the Enterprise program offering.

Exclusions apply to the additional 2% discount on Enterprise Online Services as follows:

- The price list month that applies to an order is not a factor in determining whether the additional 2% discount on Enterprise Online Services may be applied to an order. The only applicable factor is the effective date of the Enrollment.
- The discount does not apply to any extensions of the initial Term or renewal Enrollments.
- The discount does not apply to any promotional SKUs. Enrolled Affiliate is entitled to the lower of the promotional price or discounted price.

The price level that applies to Enrollments effective on or after November 1, 2021 is Level D for all Products.

The Reseller and the Enrolled Affiliate will determine the Enrolled Affiliate's actual price and payment terms.

Except for changes made by this Amendment, the Enrollment or Agreement identified above remains unchanged and in full force and effect. If there is any conflict between any provision in this Amendment and any provision in the Enrollment or Agreement identified above, this Amendment shall control.

This Amendment must be attached to a signature form to be valid.

Microsoft Internal Use Only:

Riverside County EA Amend 8.7.docx	CTM	CTM-CPT-OPT-FWK	BD
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Licensing Solution Provider Agreement Number PSA-0001523

This Licensing Solution Provider Agreement is made and entered into this 22nd day of October 2019, by and between Crayon Software Experts, LLC., a Delaware limited liability company ("CONTRACTOR"), and the COUNTY OF RIVERSIDE, a political subdivision of the State of California, ("COUNTY").

WHEREAS, COUNTY and Microsoft Corporation ("Microsoft") have entered into that certain Microsoft Enterprise Agreement (Master Agreement No. 8084445; the "Master Agreement"), effective August 23, 2019, under which COUNTY has the ability to enter into one or more enrollments to order certain Microsoft product licenses;

WHEREAS, CONTRACTOR desires to provide support to COUNTY and its Enrolled Affiliates (as defined in the Master Agreement) for said licenses under this Agreement and hereby represents that it has the skills, experience, and knowledge necessary to perform under this Agreement; and

WHEREAS, COUNTY desires to accept CONTRACTOR's services under this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

1. This Agreement covers all enrollments for all products licensed under the Master Agreement. All terms and conditions of the Master Agreement, attached as Exhibit E of this Agreement and incorporated by reference, shall apply to the purchase of related products and services.
2. This Agreement is available for use by all government entities within the State of California (an "Enrolled Affiliate") for the duration of the Term (defined below in section 4). Enrollment documents will contain the terms and conditions specific to each entity.
3. CONTRACTOR agrees to extend the same pricing, terms, and conditions as stated in this agreement to each and every government entity in the State of California. Terms and conditions are governed by this Agreement, the Master Agreement, and the applicable enrollment documents for each entity. Each Enrolled Affiliate shall make purchases in their own name, make direct payment to CONTRACTOR, and be liable directly to CONTRACTOR for all obligations.
 - 3.1 COUNTY shall in no way be responsible to CONTRACTOR for Enrolled Affiliates' purchases and obligations. COUNTY shall in no way be responsible to other entities for their purchases or any acts or omissions of CONTRACTOR, including but not limited to product selection or implementation, services or other related matters.
 - 3.2 CONTRACTOR shall notify Enrolled Affiliate in writing of the terms and conditions stated in Section 11.
4. This Agreement shall be effective from November 1, 2019 through October 31, 2021, unless terminated earlier (the "Term").
5. Hold Harmless/Indemnification:
 - 5.1 CONTRACTOR shall indemnify and hold harmless the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as Indemnitees) from any liability, action, claim or damage

OCT 22 2019

3.14

Licensing Solution Provider Agreement Number PSA-0001523

whatsoever, based or asserted upon any services, or acts or omissions, of CONTRACTOR, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature. CONTRACTOR shall defend the Indemnitees at its sole expense including all costs and fees (including, but not limited, to attorney fees, cost of investigation, defense and settlements or awards) in any claim or action based upon such acts, omissions or services.

- 5.2 With respect to any action or claim subject to indemnification herein by CONTRACTOR, CONTRACTOR shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of COUNTY; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes CONTRACTOR indemnification to Indemnitees as set forth herein.
- 5.3 CONTRACTOR'S obligation hereunder shall be satisfied when CONTRACTOR has provided to COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action or claim involved.
6. Contractor Responsibilities: CONTRACTOR will offer the following services to each Enrolled Affiliate at no additional charge. It is the responsibility of the Enrolled Affiliate to determine which products and/or services, if any, meet their needs and communicate that to the CONTRACTOR.
 - 6.1 Provide reports showing year to date annual spend according to Enrolled Affiliate's specifications. Frequency will be determined by each Enrolled Affiliate (monthly, quarterly, etc.).
 - 6.2 Provide a short synopsis of why an amendment is needed and the ramification of each amendment to an enrollment at the time of such amendment.
 - 6.3 Provide an updated price list on an annual basis or when requested by Enrolled Affiliate.
7. CONTRACTOR's Microsoft Enterprise Agreement license subscription price attached hereto as Exhibit A and service rates attached hereto as Exhibit B.
8. CONTRACTOR's Microsoft Enterprise Agreement Participation Form attached hereto as Exhibit C and incorporated herein by reference.
9. Usage Reporting: CONTRACTOR will provide to COUNTY the Licensed Support Provider (LSP) Reporting of Active Enrollments to Master Microsoft Enterprise Agreement No. 8084445, Select Plus Agreement No. 7756479, Microsoft Premier, Unified, and MCS Support services, showing a list of enrollments by February 15th of each year. Forms shall be submitted electronically to MasterMicrosoftAdmin@rivco.org. A copy of the form is attached hereto as Exhibit D and incorporated herein by reference.
10. Administrative fees: CONTRACTOR will be charged .5% of the annual enrollment amount to leverage the Riverside County Master Microsoft Agreement No. 8084445, Select Plus Agreement No. 7756479, Microsoft Premier, Unified, and MCS Support services. This will be an annual fee, per enrollment inclusive of Affiliates Shadow Enrollments. Example: A three-year aggregated agreement with a contract

Licensing Solution Provider Agreement Number PSA-0001523

amount of \$300K, divisible by three years will result in an LSP Participation Fee of \$500 annually (100K*.5%). RCIT will invoice the Awarded LSP annually based on the enrollments verified from the "Reporting of Active Enrollments" list submitted by December 15th of each year. Payment is due to Riverside County Information Technology thirty (30) days from invoice date.

10.1 Riverside County Information Technology (RCIT) will invoice the CONTRACTOR annually based on the enrollments verified. Payment is due to RCIT within thirty (30) days of invoice date. The COUNTY will not accept credit as a form of payment.

10.2 Failure to meet the administrative fee requirements herein and submit fees on a timely basis may constitute grounds for immediate termination of this Agreement.

11. Contract Management: The contacts for this Agreement for COUNTY shall be both RCIT and Purchasing as listed below.

COUNTY Primary Contact:
Jim Smith
3450 14th Street
Riverside, CA 92501

COUNTY Secondary Contact:
Rick Hai
2980 Washington Street
Riverside, CA 92504

CONTRACTOR contact:
Ken Pharr
12221 Merit Dr., #800
Dallas, TX 75251

11.1 Should Contract Management contact information change, the CONTRACTOR shall provide written notice with the updated information to the COUNTY no later than 10 business days after the change.

12. Termination:

12.1 COUNTY may terminate this Agreement without cause upon thirty (30) days written notice served upon the CONTRACTOR stating the extent and effective date of termination.

12.2 COUNTY may, upon five (5) days written notice terminate this Agreement for CONTRACTOR's default, if CONTRACTOR refuses or fails to comply with the terms of this Agreement or fails to make progress that may endanger performance and does not immediately cure such failure. In the event of such termination, the COUNTY may proceed with the work in any manner deemed proper by COUNTY.

12.3 CONTRACTOR's rights under this Agreement shall terminate (except for fees accrued prior to the date of termination) upon dishonesty or a willful or material breach of this Agreement by CONTRACTOR; or in the event of CONTRACTOR's unwillingness or inability for any reason whatsoever to perform the terms of this Agreement.

13. Conduct of Contractor:

13.1 The CONTRACTOR covenants that it presently has no interest, including, but not limited to, other projects or contracts, and shall not acquire any such interest, direct or indirect, which would

Licensing Solution Provider Agreement Number PSA-0001523

conflict in any manner or degree with CONTRACTOR's performance under this Agreement. The CONTRACTOR further covenants that no person or subcontractor having any such interest shall be employed or retained by CONTRACTOR under this Agreement. The CONTRACTOR agrees to inform the COUNTY of all the CONTRACTOR's interests, if any, which are or may be perceived as incompatible with the COUNTY's interests.

- 13.2 The CONTRACTOR shall not, under circumstances which could be interpreted as an attempt to influence the recipient in the conduct of his/her duties, accept any gratuity or special favor from individuals or firms with whom the CONTRACTOR is doing business or proposing to do business, in accomplishing the work under this Agreement.
- 13.3 The CONTRACTOR or its employees shall not offer gifts, gratuity, favors, and entertainment directly or indirectly to COUNTY employees.
- 13.4 CONTRACTOR shall establish adequate procedures for self-monitoring and quality control and assurance to ensure proper performance under this Agreement; and shall permit a COUNTY representative or other regulatory official to monitor, assess, or evaluate CONTRACTOR's performance under this Agreement at any time, upon reasonable notice to the CONTRACTOR.

14. Independent Contractor/Employment Eligibility/Non-Discrimination:

- 14.1 The CONTRACTOR is, for purposes relating to this Agreement, an independent contractor and shall not be deemed an employee of the COUNTY. It is expressly understood and agreed that the CONTRACTOR (including its employees, agents, and subcontractors) shall in no event be entitled to any benefits to which COUNTY employees are entitled, including but not limited to overtime, any retirement benefits, worker's compensation benefits, and injury leave or other leave benefits. There shall be no employer-employee relationship between the parties; and CONTRACTOR shall hold COUNTY harmless from any and all claims that may be made against COUNTY based upon any contention by a third party that an employer-employee relationship exists by reason of this Agreement. It is further understood and agreed by the parties that CONTRACTOR in the performance of this Agreement is subject to the control or direction of COUNTY merely as to the results to be accomplished and not as to the means and methods for accomplishing the results.
- 14.2 CONTRACTOR warrants that it shall make its best effort to fully comply with all federal and state statutes and regulations regarding the employment of aliens and others and to ensure that employees performing work under this Agreement meet the citizenship or alien status requirement set forth in federal statutes and regulations. CONTRACTOR shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by federal or state statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. CONTRACTOR shall retain all such documentation for all covered employees, for the period prescribed by the law.
- 14.3 CONTRACTOR shall not discriminate in the provision of services, allocation of benefits, accommodation in facilities, or employment of personnel on the basis of ethnic group identification, race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex in the performance of this Agreement; and, to the extent they shall

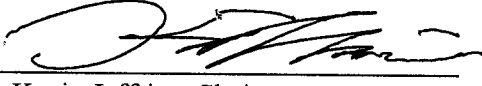
Licensing Solution Provider Agreement Number PSA-0001523

be found to be applicable hereto, shall comply with the provisions of the California Fair Employment and Housing Act (Gov. Code 12900 et. seq), the Federal Civil Rights Act of 1964 (P.L. 88-352), the Americans with Disabilities Act of 1990 (42 U.S.C. S1210 et seq.) and all other applicable laws or regulations.

15. Entire Agreement: This Agreement, including any attachments or exhibits, constitutes the entire agreement of the parties with respect to its subject matter and supersedes all prior and contemporaneous representations, proposals, discussions and communications, whether oral or in writing. This Agreement may be changed or modified only by a written amendment signed by authorized representatives of both parties.

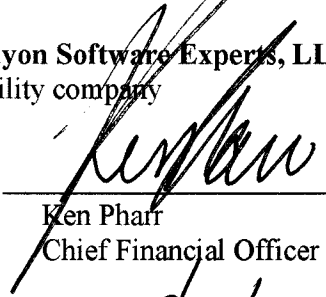
IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute this Agreement.

COUNTY OF RIVERSIDE, a political
subdivision of the State of California

By: 
Kevin Jeffries, Chairman
Board of Supervisors

Dated: OCT 22 2019

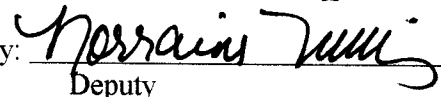
Crayon Software Experts, LLC., a Delaware limited
liability company

By: 
Ken Phair
Chief Financial Officer

Dated: 9/16/19

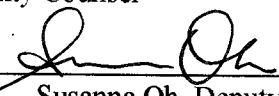
ATTEST:

Kecia Harper
Clerk of the Board

By: 
Deputy

APPROVED AS TO FORM:

Gregory P. Priamos
County Counsel

By: 
Susanna Oh, Deputy County Counsel

OCT 22 2019 3.10

Licensing Solution Provider Agreement Number PSA-0001523

Exhibit A

Microsoft Enterprise license subscription and services

Line	Description	Price Level	Markup %
1	Enterprise Online Services** (including Full USLs, From SA USLs, Add-ons and Step Ups) M365 E3 and E5, Enterprise Mobility + Security E3 and E5, Office 365 Enterprise E1 or E3, Windows 10 Enterprise E3 or E5.	Level D Minus 2%	1.00
2	Enterprise Products Office 365 Pro Plus, Windows 10 Enterprise, Core CAL Suite, Enterprise CAL Suite.	Level D	1.00
3	Additional Products M365 F1, M365 E5 Compliance, M365 E5 Security, Office 365 Enterprise F1, Project Online, Visio Online Plan 1 or Plan 2, Dynamics 365, Azure, SQL Server, Windows Server, etc.	Level D	1.00
4	Server and Tools Product (applies to Server and Cloud Enrollments only) SharePoint Server, SQL Server, BizTalk Server, Visual Studio, Core Infrastructure Suites, etc.	Level D	1.00
5	All products for Select Plus Agreement No.7756479.		1.50
6	Microsoft Premier Support		2.00
7	Microsoft Unified Support Services		2.00
8	Microsoft Consulting Services		2.00

Licensing Solution Provider Agreement Number PSA-0001523

**Exhibit B
License Support Provider (LSP) service rates**

Line	Description	Certified Competency (Yes/No)	Hourly Rate
Data and Artificial Intelligent			
1	Build Intelligent Apps	No	\$450
2	Build Intelligent Agents	No	\$450
3	Machine Learning	Yes	\$450
4	Internet of Things	Yes	\$450
5	Globally distributed data	No	\$450
6	OSS Databases	No	\$450
7	Cloud Scale Analytics	Yes	\$450
8	Data Platform Modernization to Azure	Yes	\$450
9	Windows Server on Azure	Yes	\$350
10	Security & Management	Yes	\$350
11	Datacenter Migration	Yes	\$350
12	Modern Business Intelligence	Yes	\$350
Biz Apps			
1	Customer Service	No	\$400
2	Field Service	No	\$400
3	Marketing	No	\$400
4	Talent	No	\$400
5	Finance and Operations	No	\$400
6	Business Central	No	\$400
7	Power Apps	No	\$400
8	Power BI	No	\$400
Apps and Infrastructure			
1	Azure Stack	No	\$300
2	High Performance Compute	Yes	\$300
3	Cloud Native Apps using Serverless	Yes	\$300
4	Modernize Apps	No	\$300
5	SAP on Azure	No	\$300
6	Linux on Azure	No	\$300
7	Dev Ops	No	\$300
8	Business Continuity & Disaster Recovery	Yes	\$300
9	Windows Server on Azure	Yes	\$300
10	Security & Management	Yes	\$300
11	Datacenter Migration	Yes	\$300

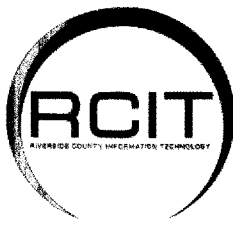
Licensing Solution Provider Agreement Number PSA-0001523

**Exhibit B (cont.)
License Support Provider (LSP) service rates**

Line	Description	Certified Competency (Yes/No)	Hourly Rate
	Modern Workplace		
1	User Adoption & Change Management	Yes	\$300
2	Security	Yes	\$300
3	GDPR & Compliance	Yes	\$300
4	Teamwork	Yes	\$300
5	Calling & Meetings	Yes	\$350
6	Modern Desktop	Yes	\$300
7	Office 365 Migration Assistance	Yes	\$300
7a	Mail	Yes	\$300
7b	Teams	Yes	\$300
7c	SharePoint	Yes	\$400
7d	OneDrive	Yes	\$300

DAVE ROGERS
Assistant Chief Executive Officer
Chief Information Officer

JIM SMITH
Chief Technology Officer



JENNIFER HILBER, ACIO
Enterprise Applications Bureau

GUSTAVO VAZQUEZ, ACIO
Converged Communications Bureau
Public Safety Enterprise Communications

GIL MEJIA, ACIO
Technology Services Bureau

Microsoft LSP Participation Form

(RFQ #RIVCO-2020-RFQ-0000048 Attachment 3)

Complete this form and return to:

Attention: Rick Hai
E-mail: RHai@rivco.org

Payment should be made to:

Riverside County Information Technology
3450 14th Street, Fourth Floor
Riverside, CA 92501

County of Riverside TIN #: 95-6000930

Company Name: Crayon Software Experts LLC

Name: Ken Pharr

Title: CFO

Address: 12221 Merit Dr #800

City: Dallas Zip Code: 75251 Telephone #: 469-329-0290

Fax #: _____ Email: sled.us@crayon.com

The County of Riverside is the host of the Microsoft Master Agreement No. 8084445. All questions regarding the products and licensing should be directed to Microsoft.

By signing below, I am agreeing to pay the participation fees for each enrollment that is established by leveraging the County of Riverside Master Agreement in accordance to the schedule referenced on RFQ #RIVCO-2020-RFQ-0000048 and any subsequent contracts and / or amendments.

By signing below, I also agree that all enrollments will be submitted to Microsoft direct, to report enrollment activity and comply to the payment schedule per RFQ #RIVCO-2020-RFQ-0000048 to Riverside County Information Technology.

Please reference the remittance information above for where to send the payment. Failure to comply may result in the award being rescinded.

Signature

Printed Name

Date

Title

Exhibit D
Microsoft LSP Reporting of Active Enrollments Form

SP Name	Company name		Enrollment	Start Date:	End Date:	Annual Spend	Enrollment Contact:	Enrollment Contact Email:	Enrollment Contact Tel:
!VCO	RIVCO-20800-00x-xx/xx								
Contract ID									
Microsoft									
Agreement Numbers	01E69633, 01E73134, AND NEW								
Master Enrollment	Enrollment Number:	Enrollment Entity:							
34445	87654321	Riverside County Information Technology		1/01/12	12/31/16	\$645,000.00	John Doe	John.Doe@riverside.org	951-555-1212

Licensing Solution Provider Agreement Number PSA-0001523

**Exhibit E
Master Agreement**

Attached include the followings:

- 1) Signature Form
- 2) Microsoft Enterprise Agreement
- 3) Microsoft Enterprise Agreement Amendment

Microsoft Document Headersheet

** This is for informational purposes only **

MSE#:

(MSLI
Tracking
Number)

5-0000004275258

Doc Type:

Signature Form

Do not modify the formatting or spacing of this Form above this text

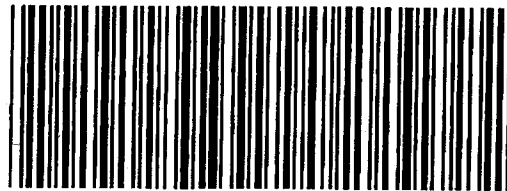
Subsidiary:

Country: **United States**

Account Manager Name / Alias:

LAR/LAD/ESA:

Insight Direct USA, Inc.



Program/Version

EA 6 2016

(Scanning Code)

ACCOUNT: County of Riverside

3

Outsourcer Name:

Business Agreement Number:

Master Agreement Number: **8084445**

Agreement Number:

Purchase Order Number:

Comments:

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Volume Licensing

Program Signature Form

MBA/MESA number

Agreement number

808444S

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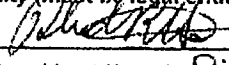
Note: Enter the applicable active numbers associated with the documents below. Microsoft requires the associated active number be indicated here, or listed below as new.

For the purposes of this form, "Customer" can mean the signing entity, Enrolled Affiliate, Government Partner, Institution, or other party entering into a volume licensing program agreement.

This signature form and all contract documents identified in the table below are entered into between the Customer and the Microsoft Affiliate signing, as of the effective date identified below.

Contract Document	Number or Code
Enterprise Agreement	X20-10209
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
Amendment to Contract Documents	CTM-CPT-OPT-FWK (new)

By signing below, Customer and the Microsoft Affiliate agree that both parties (1) have received, read and understand the above contract documents, including any websites or documents incorporated by reference and any amendments and (2) agree to be bound by the terms of all such documents.

Customer	
Name of Entity (must be legal entity name)* County of Riverside	
Signature* 	
Printed First and Last Name* Richard R. Hai	
Printed Title Sr. Procurement Contract Specialist	
Signature Date* 08/22/2019	
Tax ID	

* indicates required field

FORM APPROVED COUNTY COUNSEL
BY  8/22/19
DATE
SUSANNA N. OH

Microsoft Affiliate	
Microsoft Corporation	
Signature <u><i>[Signature]</i></u> Printed First and Last Name Printed Title Signature Date (date Microsoft Affiliate countersigns)	 Microsoft Microsoft Corporation AUG 23 2019 Chance Krail Duly Authorized on behalf of Microsoft Corporation
Agreement Effective Date (may be different than Microsoft's signature date)	
8/23/2019	

Optional 2nd Customer signature or Outsourcer signature (if applicable)

Customer
Name of Entity (must be legal entity name)*
Signature* _____
Printed First and Last Name*
Printed Title
Signature Date*

* indicates required field

Outsourcer
Name of Entity (must be legal entity name)*
Signature* _____
Printed First and Last Name*
Printed Title
Signature Date*

* indicates required field

If Customer requires physical media, additional contacts, or is reporting multiple previous Enrollments, include the appropriate form(s) with this signature form.

After this signature form is signed by the Customer, send it and the Contract Documents to Customer's channel partner or Microsoft account manager, who must submit them to the following address. When the signature form is fully executed by Microsoft, Customer will receive a confirmation copy.

Microsoft Corporation
 Dept. 551, Volume Licensing
 6100 Neil Road, Suite 210
 Reno, Nevada 89511-1137
 USA

Microsoft Document Headersheet

** This is for informational purposes only **

MSE#:

(MSLI
Tracking
Number)

5-0000004275258

Doc Type:

[REDACTED] Agreement

Do not modify the formatting or spacing of this Form above this text

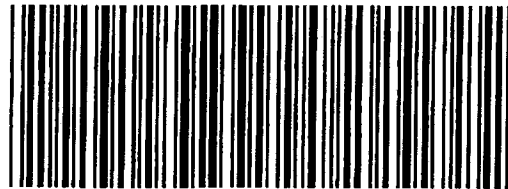
Subsidiary:

Country: **United States**

Account Manager Name / Alias:

LAR/LAD/ESA:

Insight Direct USA, Inc.



Program/Version

EA 6 2016

(Scanning Code)

ACCOUNT: County of Riverside

Outsourcer Name:

Business Agreement Number:

Master Agreement Number: **8084445**

Agreement Number:

Purchase Order Number:

15

Comments:

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Enterprise Agreement

State and Local

Not for Use with Microsoft Business Agreement or Microsoft Business and Services Agreement

This Microsoft Enterprise Agreement ("Agreement") is entered into between the entities identified on the signature form.

Effective date. The effective date of this Agreement is the earliest effective date of any Enrollment entered into under this Agreement or the date Microsoft accepts this Agreement, whichever is earlier.

This Agreement consists of (1) these Agreement terms and conditions, including any amendments and the signature form and all attachments identified therein, (2) the Product Terms applicable to Products licensed under this Agreement, (3) the Online Services Terms, (4) any Affiliate Enrollment entered into under this Agreement, and (5) any order submitted under this Agreement.

Please note: Documents referenced in this Agreement but not attached to the signature form may be found at <http://www.microsoft.com/licensing/contracts> and are incorporated in this Agreement by reference, including the Product Terms and Use Rights. These documents may contain additional terms and conditions for Products licensed under this Agreement and may be changed from time to time. Customer should review such documents carefully, both at the time of signing and periodically thereafter, and fully understand all terms and conditions applicable to Products licensed.

Terms and Conditions

1. Definitions.

"Affiliate" means

- a. with regard to Customer,
 - (i) any government agency, department, office, instrumentality, division, unit or other entity of the state or local government that is supervised by or is part of Customer, or which supervises Customer or of which Customer is a part, or which is under common supervision with Customer;
 - (ii) any county, borough, commonwealth, city, municipality, town, township, special purpose district, or other similar type of governmental instrumentality established by the laws of Customer's state and located within Customer's state jurisdiction and geographic boundaries; and
 - (iii) any other entity in Customer's state expressly authorized by the laws of Customer's state to purchase under state contracts; provided that a state and its Affiliates shall not, for purposes of this definition, be considered to be Affiliates of the federal government and its Affiliates; and
- b. with regard to Microsoft, any legal entity that Microsoft owns, that owns Microsoft, or that is under common ownership with Microsoft.

"Customer" means the legal entity that has entered into this Agreement with Microsoft.

"Customer Data" means all data, including all text, sound, software, image, or video files that are provided to Microsoft by, or on behalf of, an Enrolled Affiliate and its Affiliates through use of Online Services.

"day" means a calendar day, except for references that specify "business day".

"Enrolled Affiliate" means an entity, either Customer or any one of Customer's Affiliates that has entered into an Enrollment under this Agreement.

"Enrollment" means the document that an Enrolled Affiliate submits under this Agreement to place orders for Products.

"Enterprise" means an Enrolled Affiliate and the Affiliates for which it is responsible and chooses on its Enrollment to include in its enterprise.

"Fixes" means Product fixes, modifications or enhancements, or their derivatives, that Microsoft either releases generally (such as Product service packs) or provides to Customer to address a specific issue.

"License" means the right to download, install, access and use a Product. For certain Products, a License may be available on a fixed term or subscription basis ("Subscription License"). Licenses for Online Services will be considered Subscription Licenses.

"Microsoft" means the Microsoft Affiliate that has entered into this Agreement or an Enrollment and its Affiliates, as appropriate.

"Online Services" means the Microsoft-hosted services identified as Online Services in the Product Terms.

"Online Services Terms" means the additional terms that apply to Customer's use of Online Services published on the Volume Licensing Site and updated from time to time.

"Product" means all products identified in the Product Terms, such as all Software, Online Services and other web-based services, including pre-release or beta versions.

"Product Terms" means the document that provides information about Microsoft Products and Professional Services available through volume licensing. The Product Terms document is published on the Volume Licensing Site and is updated from time to time.

"SLA" means Service Level Agreement, which specifies the minimum service level for Online Services and is published on the Volume Licensing Site.

"Software" means licensed copies of Microsoft software identified on the Product Terms. Software does not include Online Services, but Software may be part of an Online Service.

"Software Assurance" is an offering by Microsoft that provides new version rights and other benefits for Products as further described in the Product Terms.

"Trade Secret" means information that is not generally known or readily ascertainable to the public, has economic value as a result, and has been subject to reasonable steps under the circumstances to maintain its secrecy.

"use" or "run" means to copy, install, use, access, display, run or otherwise interact.

"Use Rights" means the use rights or terms of service for each Product published on the Volume Licensing Site and updated from time to time. The Use Rights supersede the terms of any end user license agreement that accompanies a Product. The Use Rights for Software are published by Microsoft in the Product Terms. The Use Rights for Online Services are published in the Online Services Terms.

"Volume Licensing Site" means <http://www.microsoft.com/licensing/contracts> or a successor site.

2. How the Enterprise program works.

- a. **General.** The Enterprise program consists of the terms and conditions on which an Enrolled Affiliate may acquire Product Licenses. Under the Enterprise program, Customer and its Affiliates may order Licenses for Products by entering into Enrollments.
- b. **Enrollments.** The Enterprise program gives Customer and/or its Affiliates the ability to enter into one or more Enrollments to order Products. Subscription Enrollments may be available for some of these Enrollments. Notwithstanding any other provision of this Agreement, only Enrolled Affiliates identified in an Enrollment will be responsible for complying with the terms of that Enrollment, including the terms of this Agreement incorporated by reference in that Enrollment.

- c. **Licenses.** The types of Licenses available are (1) Licenses obtained under Software Assurance (L&SA), and (2) Subscription Licenses. These License types, as well as additional License Types, are further described in the Product List.

3. **Licenses for Products.**

- a. **License Grant.** Microsoft grants the Enterprise a non-exclusive, worldwide and limited right to download, install and use software Products, and to access and use the Online Services, each in the quantity ordered under an Enrollment. The rights granted are subject to the terms of this Agreement, the Use Rights and the Product Terms. Microsoft reserves all rights not expressly granted in this Agreement.
- b. **Duration of Licenses.** Subscription Licenses and most Software Assurance rights are temporary and expire when the applicable Enrollment is terminated or expires, unless the Enrolled Affiliate exercises a buy-out option, which is available for some Subscription Licenses. Except as otherwise noted in the applicable Enrollment or Use Rights, all other Licenses become perpetual only when all payments for that License have been made and the initial Enrollment term has expired.
- c. **Applicable Use Rights.**
- (i) **Products (other than Online Services).** The Use Rights in effect on the effective date of the applicable Enrollment term will apply to Enterprise's use of the version of each Product that is current at the time. For future versions and new Products, the Use Rights in effect when those versions and Products are first released will apply. Changes Microsoft makes to the Use Rights for a particular version will not apply unless the Enrolled Affiliate chooses to have those changes apply. The Use Rights applicable to perpetual Licenses that were acquired under a previous agreement or Enrollment are determined by the Agreement or Enrollment under which they were acquired. Renewal of Software Assurance does not change which Use Rights apply to those Licenses.
- (ii) **Online Services.** For Online Services, the Use Rights in effect on the subscription start date will apply for the subscription term as defined in the Product Terms.
- d. **Downgrade rights.** Enrolled Affiliate may use an earlier version of a Product other than Online Services than the version that is current on the effective date of the Enrollment. For Licenses acquired in the current Enrollment term, the Use Rights for the current version apply to the use of the earlier version. If the earlier Product version includes features that are not in the new version, then the Use Rights applicable to the earlier version apply with respect to those features.
- e. **New Version Rights under Software Assurance.** Enrolled Affiliate must order and maintain continuous Software Assurance coverage for each License ordered. With Software Assurance coverage, Enterprise automatically has the right to use a new version of a licensed Product as soon as it is released, even if Enrolled Affiliate chooses not to use the new version immediately.
- (i) Except as otherwise permitted under an Enrollment, use of the new version will be subject to the new version's Use Rights.
- (ii) If the License for the earlier version of the Product is perpetual at the time the new version is released, the License for the new version will also be perpetual. Perpetual Licenses obtained through Software Assurance replace any perpetual Licenses for the earlier version.
- f. **License confirmation.** This Agreement, the applicable Enrollment, Enrolled Affiliate's order confirmation, and any documentation evidencing transfers of perpetual Licenses, together with proof of payment, will be Enrolled Affiliate's evidence of all Licenses obtained under an Enrollment.

- g. **Reorganizations, consolidations and privatizations.** If the number of Licenses covered by an Enrollment changes by more than ten percent as a result of (1) a reorganization, consolidation or privatization of an entity or an operating division, (2) a privatization of an Affiliate or an operating division of Enrolled Affiliate or any of its Affiliates, or (3) a consolidation including a merger with a third party that has an existing agreement or Enrollment, Microsoft will work with Enrolled Affiliate in good faith to determine how to accommodate its changed circumstances in the context of this Agreement.

4. Making copies of Products and re-imaging rights.

- a. **General.** Enrolled Affiliate may make as many copies of Products, as it needs to distribute them within the Enterprise. Copies must be true and complete (including copyright and trademark notices) from master copies obtained from a Microsoft approved fulfillment source. Enrolled Affiliate may use a third party to make these copies, but Enrolled Affiliate agrees it will be responsible for any third party's actions. Enrolled Affiliate agrees to make reasonable efforts to notify its employees, agents, and any other individuals who use the Products that the Products are licensed from Microsoft and subject to the terms of this Agreement.
- b. **Copies for training/evaluation and back-up.** For all Products other than Online Services, Enrolled Affiliate may: (1) use up to 20 complimentary copies of any licensed Product in a dedicated training facility on its premises for purposes of training on that particular Product, (2) use up to 10 complimentary copies of any Products for a 60-day evaluation period, and (3) use one complimentary copy of any licensed Product for back-up or archival purposes for each of its distinct geographic locations. Trials for Online Services may be available if specified in the Use Rights.
- c. **Right to re-image.** In certain cases, re-imaging is permitted using the Product media. If the Microsoft Product is licensed (1) from an original equipment manufacturer (OEM), (2) as a full packaged Product through a retail source, or (3) under another Microsoft program, then media provided under this Agreement may generally be used to create images for use in place of copies provided through that separate source. This right is conditional upon the following:
- (i) Separate Licenses must be acquired from the separate source for each Product that is re-imaged.
 - (ii) The Product, language, version, and components of the copies made must be identical to the Product, language, version, and all components of the copies they replace and the number of copies or instances of the re-imaged Product permitted remains the same.
 - (iii) Except for copies of an operating system and copies of Products licensed under another Microsoft program, the Product type (e.g., Upgrade or full License) re-imaged must be identical to the Product type licensed from the separate source.
 - (iv) Enrolled Affiliate must adhere to any Product-specific processes or requirements for re-imaging identified in the Product Terms.

Re-imaged Products remain subject to the terms and use rights of the License acquired from the separate source. This subsection does not create or extend any Microsoft warranty or support obligation.

5. Transferring and reassigning Licenses.

- a. **License transfers.** License transfers are not permitted, except that Customer or an Enrolled Affiliate may transfer only fully-paid perpetual Licenses to:
- (i) an Affiliate, or
 - (ii) a third party solely in connection with the transfer of hardware or employees to whom the Licenses have been assigned as part of (A) a privatization of an Affiliate or agency or of an

operating division of Enrolled Affiliate or an Affiliate. (B) a reorganization, or (C) a consolidation.

Upon such transfer, Customer or Enrolled Affiliate must uninstall and discontinue using the licensed Product and render any copies unusable.

- b. **Notification of License Transfer.** Enrolled Affiliate must notify Microsoft of a License transfer by completing a license transfer form, which can be obtained from <http://www.microsoft.com/licensing/contracts> and sending the completed form to Microsoft before the License transfer. No License transfer will be valid unless Enrolled Affiliate provides to the transferee, and the transferee accepts in writing, documents sufficient to enable the transferee to ascertain the scope, purpose and limitations of the rights granted by Microsoft under the licenses being transferred (including the applicable Use Rights, use and transfer restrictions, warranties and limitations of liability). Any License transfer not made in compliance with this section will be void.
- c. **Internal Assignment of Licenses and Software Assurance.** Licenses and Software Assurance must be assigned to a single user or device within the Enterprise. Licenses and Software Assurance may be reassigned within the Enterprise as described in the Use Rights.

6. **Term and termination.**

- a. **Term.** The term of this Agreement will be 36 full calendar months from the effective date unless terminated by either party as described below. Each Enrollment will have the term provided in that Enrollment.
- b. **Termination without cause.** Either party may terminate this Agreement, without cause, upon 60 days' written notice. In the event of termination, new Enrollments will not be accepted, but any existing Enrollment will continue for the term of such Enrollment and will continue to be governed by this Agreement.
- c. **Mid-term termination for non-appropriation of Funds.** Enrolled Affiliate may terminate this Agreement or an Enrollment without liability, penalty or further obligation to make payments if funds to make payments under the Agreement or Enrollment are not appropriated or allocated by the Enrolled Affiliate for such purpose.
- d. **Termination for cause.** Without limiting any other remedies it may have, either party may terminate an Enrollment if the other party materially breaches its obligations under this Agreement, including any obligation to submit orders or pay invoices. Except where the breach is by its nature not curable within 30 days, the terminating party must give the other party 30 days' notice of its intent to terminate and an opportunity to cure the breach.

If Microsoft gives such notice to an Enrolled Affiliate, Microsoft also will give Customer a copy of that notice and Customer agrees to help resolve the breach. If the breach affects other Enrollments and cannot be resolved between Microsoft and Enrolled Affiliate, together with Customer's help, within a reasonable period of time, Microsoft may terminate this Agreement and all Enrollments under it. If an Enrolled Affiliate ceases to be Customer's Affiliate, it must promptly notify Microsoft, and Microsoft may terminate the former Affiliate's Enrollment. If an Enrolled Affiliate terminates its Enrollment as a result of a breach by Microsoft, or if Microsoft terminates an Enrollment because Enrolled Affiliate ceases to be Customer's Affiliate, then Enrolled Affiliate will have the early termination rights described in the Enrollment.

- e. **Early termination.** If (1) an Enrolled Affiliate terminates its Enrollment as a result of a breach by Microsoft, or (2) if Microsoft terminates an Enrollment because the Enrolled Affiliate has ceased to be an Affiliate of Customer, or (3) Enrolled Affiliate terminates an Enrollment for non-appropriation of funds, or (4) Microsoft terminates an Enrollment for non-payment due to non-appropriation of funds, then the Enrolled Affiliate will have the following options:
 - (i) It may immediately pay the total remaining amount due, including all installments, in which case, the Enrolled Affiliate will have perpetual rights for all Licenses it has ordered; or

(ii) It may pay only amounts due as of the termination date, in which case the Enrolled Affiliate will have perpetual Licenses for:

- 1) all copies of Products (including the latest version of Products ordered under SA coverage in the current term) for which payment has been made in full, and
- 2) the number of copies of Products it has ordered (including the latest version of Products ordered under Software Assurance coverage in current term) that is proportional to the total of installment payments paid versus total amounts due (paid and payable) if the early termination had not occurred.

(iii) In the case of early termination under subscription Enrollments, Enrolled Affiliate will have the following options:

- 1) For eligible Products, Enrolled Affiliate may obtain perpetual Licenses as described in the section of the Enrollment titled "Buy-out option," provided that Microsoft receives the buy-out order for those Licenses within 60 days after Enrolled Affiliate provides notice of termination.
- 2) In the event of a breach by Microsoft, if Customer chooses not to exercise a buy-out option, Microsoft will issue Enrolled Affiliate a credit for any amount paid in advance for Subscription Licenses that the Enterprise will not be able to use to do the termination of the Enrollment.

Nothing in this section shall affect perpetual License rights acquired either in a separate agreement or in a prior term of the terminated Enrollment.

f. **Effect of termination or expiration.** When an Enrollment expires or is terminated,

(i) Enrolled Affiliate must order Licenses for all copies of Products it has run for which it has not previously submitted an order. Any and all unpaid payments for any order of any kind remain due and payable. Except as provided in the subsection titled "Early termination," all unpaid payments for Licenses immediately become due and payable.

(ii) Enrolled Affiliate's right to Software Assurance benefits under this Agreement ends if it does not renew Software Assurance.

g. **Modification or termination of an Online Service for regulatory reasons.** Microsoft may modify or terminate an Online Service where there is any current or future government requirement or obligation that: (1) subjects Microsoft to any regulation or requirement not generally applicable to businesses operating in the jurisdiction; (2) presents a hardship for Microsoft to continue operating the Online Service without modification; and/or (3) causes Microsoft to believe these terms or the Online Service may conflict with any such requirement or obligation.

h. **Program updates.** Microsoft may make changes to this program that will make it necessary for Customer and its Enrolled Affiliates to enter into new agreements and Enrollments at the time of an Enrollment renewal.

7. Use, ownership, rights, and restrictions.

- a. **Products.** Unless otherwise specified in a supplemental agreement, use of any Product is governed by the Use Rights specific to each Product and version and by the terms of the applicable supplemental agreement.
- b. **Fixes.** Each Fix is licensed under the same terms as the Product to which it applies. If a Fix is not provided for a specific Product, any use rights Microsoft provides with the Fix will apply.
- c. **Non-Microsoft software and technology.** Enrolled Affiliate is solely responsible for any non-Microsoft software or technology that it installs or uses with the Products or Fixes.

- d. **Restrictions.** Enrolled Affiliate must not (and is not licensed to) (1) reverse engineer, decompile, or disassemble any Product or Fix; (2) install or use non-Microsoft software or technology in any way that would subject Microsoft's intellectual property or technology to any other license terms; or (3) work around any technical limitations in a Product or Fix or restrictions in Product documentation. Customer must not (and is not licensed to) (i) separate and run parts of a Product or Fix on more than one device, upgrade or downgrade parts of a Product or Fix at different times, or transfer parts of a Product or Fix separately; or (ii) distribute, sublicense, rent, lease, lend any Products or Fixes, in whole or in part, or use them to offer hosting services to a third party.
- e. **Reservation of rights.** Products and Fixes are protected by copyright and other intellectual property rights laws and international treaties. Microsoft reserves all rights not expressly granted in this agreement. No rights will be granted or implied by waiver or estoppel. Rights to access or use Software on a device do not give Customer any right to implement Microsoft patents or other Microsoft intellectual property in the device itself or in any other software or devices.

8. Confidentiality.

"Confidential Information" is non-public information that is designated "confidential" or that a reasonable person should understand is confidential, including Customer Data. Confidential Information does not include information that (a) becomes publicly available without a breach of this agreement, (b) the receiving party received lawfully from another source without a confidentiality obligation, (c) is independently developed, or (d) is a comment or suggestion volunteered about the other party's business, products or services.

Each party will take reasonable steps to protect the other's Confidential Information and will use the other party's Confidential Information only for purposes of the parties' business relationship. Neither party will disclose that Confidential Information to third parties, except to its employees, Affiliates, contractors, advisors and consultants ("Representatives") and then only on a need-to-know basis under nondisclosure obligations at least as protective as this agreement. Each party remains responsible for the use of the Confidential Information by its Representatives and, in the event of discovery of any unauthorized use or disclosure, must promptly notify the other party.

A party may disclose the other's Confidential Information if required by law, but only after it notifies the other party (if legally permissible) to enable the other party to seek a protective order.

Neither party is required to restrict work assignments of its Representatives who have had access to Confidential Information. Each party agrees that the use of information retained in Representatives' unaided memories in the development or deployment of the parties' respective products or services does not create liability under this Agreement or trade secret law, and each party agrees to limit what it discloses to the other accordingly.

These obligations apply (i) for Customer Data until it is deleted from the Online Services, and (ii) for all other Confidential Information, for a period of five years after a party receives the Confidential Information.

9. Privacy and compliance with laws.

- a. Enrolled Affiliate consents to the processing of personal information by Microsoft and its agents to facilitate the subject matter of this Agreement. Enrolled Affiliate will obtain all required consents from third parties under applicable privacy and data protection law before providing personal information to Microsoft.
- b. Personal information collected under this agreement (i) may be transferred, stored and processed in the United States or any other country in which Microsoft or its service providers maintain facilities and (ii) will be subject to the privacy terms specified in the Use Rights. Microsoft will abide by the requirements of European Economic Area and Swiss data protection

law regarding the collection, use, transfer, retention, and other processing of personal data from the European Economic Area and Switzerland.

- c. **U.S. export.** Products and Fixes are subject to U.S. export jurisdiction. Enrolled Affiliate must comply with all applicable international and national laws, including the U.S. Export Administration Regulations and International Traffic in Arms Regulations, and end-user, end use and destination restrictions issued by U.S. and other governments related to Microsoft products, services and technologies.

10. Warranties.

a. Limited warranties and remedies.

- (i) **Software.** Microsoft warrants that each version of the Software will perform substantially as described in the applicable Product documentation for one year from the date the Enterprise is first licensed for that version. If it does not and the Enterprise notifies Microsoft within the warranty term, then Microsoft will, at its option (1) return the price Enrolled Affiliate paid for the Software license, or (2) repair or replace the Software.
- (ii) **Online Services.** Microsoft warrants that each Online Service will perform in accordance with the applicable SLA during the Enterprise's use. The Enterprise's remedies for breach of this warranty are in the SLA.

The remedies above are the Enterprise's sole remedies for breach of the warranties in this section. Customer waives any breach of warranty claims not made during the warranty period.

- b. **Exclusions.** The warranties in this agreement do not apply to problems caused by accident, abuse, or use in a manner inconsistent with this Agreement, including failure to meet minimum system requirements. These warranties do not apply to free, trial, pre-release, or beta products, or to components of Products that Enrolled Affiliate is permitted to redistribute.
- c. **Disclaimer.** Except for the limited warranties above, Microsoft provides no other warranties or conditions and disclaims any other express, implied, or statutory warranties, including warranties of quality, title, non-infringement, merchantability, and fitness for a particular purpose.

11. Defense of third party claims.

The parties will defend each other against the third-party claims described in this section and will pay the amount of any resulting adverse final judgment or approved settlement, but only if the defending party is promptly notified in writing of the claim and has the right to control the defense and any settlement of it. The party being defended must provide the defending party with all requested assistance, information, and authority. The defending party will reimburse the other party for reasonable out-of-pocket expenses it incurs in providing assistance. This section describes the parties' sole remedies and entire liability for such claims.

- a. **By Microsoft.** Microsoft will defend Enrolled Affiliate against any third-party claim to the extent it alleges that a Product or Fix made available by Microsoft for a fee and used within the scope of the license granted (unmodified from the form provided by Microsoft and not combined with anything else) misappropriates a trade secret or directly infringes a patent, copyright, trademark or other proprietary right of a third party. If Microsoft is unable to resolve a claim of infringement under commercially reasonable terms, it may, at its option, either (1) modify or replace the Product or Fix with a functional equivalent; or (2) terminate Enrolled Affiliate's license and refund any prepaid license fees (less depreciation on a five-year, straight-line basis) for perpetual licenses and any amount paid for Online Services for any usage period after the termination date. Microsoft will not be liable for any claims or damages due to Enrolled Affiliate's continued use of a Product or Fix after being notified to stop due to a third-party claim.
- b. **By Enrolled Affiliate.** To the extent permitted by applicable law, Enrolled Affiliate will defend Microsoft against any third-party claim to the extent it alleges that: (1) any Customer Data or

non-Microsoft software hosted in an Online Service by Microsoft on Enrolled Affiliate's behalf misappropriates a trade secret or directly infringes a patent, copyright, trademark, or other proprietary right of a third party; or (2) Enrolled Affiliate's use of any Product or Fix, alone or in combination with anything else, violates the law or damages a third party.

12. Limitation of liability.

For each Product, each party's maximum, aggregate liability to the other under this Agreement is limited to direct damages finally awarded in an amount not to exceed the amounts Enrolled Affiliate was required to pay for the applicable Products during the term of this Agreement, subject to the following:

- a. **Online Services.** For Online Services, Microsoft's maximum liability to Enrolled Affiliate for any incident giving rise to a claim will not exceed the amount Enrolled Affiliate paid for the Online Service during the 12 months before the incident.
- b. **Free Products and Distributable Code.** For Products provided free of charge and code that Enrolled Affiliate is authorized to redistribute to third parties without separate payment to Microsoft, Microsoft's liability is limited to direct damages finally awarded up to US\$5,000.
- c. **Exclusions.** In no event will either party be liable for indirect, incidental, special, punitive, or consequential damages, or for loss of use, loss of business information, loss of revenue, or interruption of business, however caused or on any theory of liability.
- d. **Exceptions.** No limitation or exclusions will apply to liability arising out of either party's (1) confidentiality obligations (except for all liability related to Customer Data, which will remain subject to the limitations and exclusions above); (2) defense obligations; or (3) violation of the other party's intellectual property rights.

13. Verifying compliance.

- a. **Right to verify compliance.** Enrolled Affiliate must keep records relating to all use and distribution of Products by Enrolled Affiliate and its Affiliates. Microsoft has the right, at its expense, to the extent permitted by applicable law, to verify compliance with the Product's license terms. Enrolled Affiliate must promptly provide the independent auditor with any information the auditor reasonably requests in furtherance of the verification, including access to systems running the Products and evidence of Licenses for Products Enrolled Affiliate hosts, sublicenses, or distributes to third parties. Enrolled Affiliate agrees to complete Microsoft's self-audit process, which Microsoft may require as an alternative to a third party audit.
- b. **Remedies for non-compliance.** If verification or self-audit reveals any unlicensed use or distribution, then within 30 days, (1) Enrolled Affiliate must order sufficient Licenses to cover that use or distribution, and (2) if unlicensed use or distribution is 5% or more, Enrolled Affiliate must reimburse Microsoft for the cost Microsoft has incurred in verification and acquire the necessary additional licenses at 125% of the price based on the then-current price list and Enrolled Affiliate price level. The unlicensed use percentage is based on the total number of licenses purchased compared to actual install base. If there is no unlicensed use, Microsoft will not subject Enrolled Affiliate to another verification for at least one year. By exercising the rights and procedures described above, Microsoft does not waive its rights to enforce this Agreement or to protect its intellectual property by any other means permitted by law.
- c. **Verification process.** Microsoft will notify Enrolled Affiliate at least 30 days in advance of its intent to verify Enrolled Affiliate's compliance with the license terms for the Products Enrolled Affiliate and its Affiliates use or distribute. Microsoft will engage an independent auditor, which will be subject to a confidentiality obligation. Any information collected in the self-audit will be used solely for purposes of determining compliance. This verification will take place during normal business hours and in a manner that does not interfere unreasonably with Enrolled Affiliate's operations.

14. **Miscellaneous.**

- a. **Use of contractors.** Microsoft may use contractors to perform services, but will be responsible for their performance subject to the terms of this Agreement.
- b. **Microsoft as independent contractor.** The parties are independent contractors. Enrolled Affiliate and Microsoft each may develop products independently without using the other's Confidential Information.
- c. **Notices.** Notices to Microsoft must be sent to the address on the signature form. Notices must be in writing and will be treated as delivered on the date shown on the return receipt or on the courier or fax confirmation of delivery. Microsoft may provide information to Enrolled Affiliate about upcoming ordering deadlines, services, and subscription information in electronic form, including by email to contacts provided by Enrolled Affiliate. Emails will be treated as delivered on the transmission date.
- d. **Agreement not exclusive.** Customer is free to enter into agreements to license, use or promote non-Microsoft products.
- e. **Amendments.** Any amendment to this Agreement must be executed by both parties, except that Microsoft may change the Product Terms and the Use Rights from time to time in accordance with the terms of this Agreement. Any conflicting terms and conditions contained in an Enrolled Affiliate's purchase order will not apply. Microsoft may require Customer to sign a new agreement or an amendment before an Enrolled Affiliate enters into an Enrollment under this agreement.
- f. **Assignment.** Either party may assign this Agreement to an Affiliate, but must notify the other party in writing of the assignment. Any other proposed assignment must be approved by the non-assigning party in writing. Assignment will not relieve the assigning party of its obligations under the assigned agreement. Any attempted assignment without required approval will be void.
- g. **Applicable law; dispute resolution.** The terms of this Agreement will be governed by the laws of Customer's state, without giving effect to its conflict of laws. Disputes relating to this Agreement will be subject to applicable dispute resolution laws of Customer's state.
- h. **Severability.** If any provision in this agreement is held to be unenforceable, the balance of the agreement will remain in full force and effect.
- i. **Waiver.** Failure to enforce any provision of this agreement will not constitute a waiver. Any waiver must be in writing and signed by the waiving party.
- j. **No third-party beneficiaries.** This Agreement does not create any third-party beneficiary rights.
- k. **Survival.** All provisions survive termination or expiration of this Agreement except those requiring performance only during the term of the Agreement.
- l. **Management and Reporting.** Customer and/or Enrolled Affiliate may manage account details (e.g., contacts, orders, Licenses, software downloads) on Microsoft's Volume Licensing Service Center ("VLSC") web site (or successor site) at: <https://www.microsoft.com/licensing/servicecenter>. Upon the effective date of this Agreement and any Enrollments, the contact(s) identified for this purpose will be provided access to this site and may authorize additional users and contacts.
- m. **Order of precedence.** In the case of a conflict between any documents in this Agreement that is not expressly resolved in those documents, their terms will control in the following order from highest to lowest priority: (1) this Enterprise Agreement, (2) any Enrollment, (3) the Product Terms, (4) the Online Services Terms, (5) orders submitted under this Agreement, and (6) any other documents in this Agreement. Terms in an amendment control over the amended document and any prior amendments concerning the same subject matter.

- n. **Free Products.** It is Microsoft's intent that the terms of this Agreement and the Use Rights be in compliance with all applicable federal law and regulations. Any free Product provided to Enrolled Affiliate is for the sole use and benefit of the Enrolled Affiliate, and is not provided for use by or personal benefit of any specific government employee.
- o. **Voluntary Product Accessibility Templates.** Microsoft supports the government's obligation to provide accessible technologies to its citizens with disabilities as required by Section 508 of the Rehabilitation Act of 1973, and its state law counterparts. The Voluntary Product Accessibility Templates ("VPATs") for the Microsoft technologies used in providing the Online Services can be found at Microsoft's VPAT page. Further information regarding Microsoft's commitment to accessibility can be found at <http://www.microsoft.com/enable>.
- p. **Natural disaster.** In the event of a "natural disaster," Microsoft may provide additional assistance or rights by posting them on <http://www.microsoft.com> at such time.
- q. **Copyright violation.** Except as set forth in the section above entitled "Transferring and reassigning Licenses", the Enrolled Affiliate agrees to pay for, and comply with the terms of this Agreement and the Use Rights, for the Products it uses. Except to the extent Enrolled Affiliate is licensed under this Agreement, it will be responsible for its breach of this contract and violation of Microsoft's copyright in the Products, including payment of License fees specified in this Agreement for unlicensed use.

Supplemental Contact Information Form

This form can be used in combination with MBSA, Agreement, and Enrollment/Registration. However, a separate form must be submitted for each enrollment/registration, when more than one is submitted on a signature form. For the purposes of this form, "entity" can mean the signing entity, Customer, Enrolled Affiliate, Government Partner, Institution, or other party entering into a volume licensing program agreement. Primary and Notices contacts in this form will not apply to enrollments or registrations.

This form applies to:

- ☐ MBSA
☒ Agreement
☐ Enrollment/Affiliate Registration Form

Insert primary entity name if more than one Enrollment/Registration Form is submitted

Contact information.

Each party will notify the other in writing if any of the information in the following contact information page(s) changes. The asterisks (*) indicate required fields; if the entity chooses to designate other contact types, the same required fields must be completed for each section. By providing contact information, entity consents to its use for purposes of administering the Enrollment by Microsoft and other parties that help Microsoft administer this Enrollment. The personal information provided in connection with this agreement will be used and protected according to the privacy statement available at <https://licensing.microsoft.com>.

1. Additional notices contact.

This contact receives all notices that are sent from Microsoft. No online access is granted to this individual.

Name of entity* County of Riverside
 Contact name*: First Regina Last Funderburk
 Contact email address* RFunderburk@rivco.org
 Street address* 3450 14th Street, 4th Floor
 City* Riverside State/Province* California Postal code* 92501-3861
 Country* USA

Phone* 951-955-2265 Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

2. Software Assurance manager.

This contact will receive online permissions to manage the Software Assurance benefits under the Enrollment or Registration.

Name of entity* County of Riverside
 Contact name*: First Regina Last Funderburk
 Contact email address* RFunderburk@rivco.org
 Street address* 3450 14th Street, 4th Floor
 City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-2265 Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

3. Subscriptions manager.

This contact will assign MSDN, Expression, and TechNet Plus subscription licenses to the individual subscribers under this Enrollment or Registration. Assignment of the subscription licenses is necessary for access to any of the online benefits, such as subscription downloads. This contact will also manage any complimentary or additional media purchases related to these subscriptions.

Name of entity* County of Riverside

Contact name*: First Regina Last Funderburk

Contact email address* RFunderburk@rivco.org

Street address* 3450 14th Street, 4th Floor

City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-2265 Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

4. Online services manager.

This contact will be provided online permissions to manage the online services ordered under the Enrollment or Registration.

Name of entity* County of Riverside

Contact name*: First Luis Last Flores

Contact email address* LFFlores@rivco.org

Street address* 3450 14th Street, 4th Floor

City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-8114 Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

5. Customer Support Manager (CSM).

This person is designated as the Customer Support Manager (CSM) for support-related activities.

Name of entity* County of Riverside

Contact name*: First Luis Last Flores

Contact email address* LFFlores@rivco.org

Street address* 3450 14th Street, 4th Floor

City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-8114 Fax

6. Primary contact information.

An individual from inside the organization must serve as the primary contact. This contact receives online administrator permissions and may grant online access to others. This contact also receives all notices unless Microsoft is provided written notice of a change.

Name of entity* County of Riverside

Contact name*: First Jim Last Smith
Contact email address* jimsmith@rivco.org
Street address* 3450 14th Street, 4th Floor
City* Riverside State/Province* CA Postal code* 92501-3861
Country* US
Phone* 951-231-5909 Fax

7. Notices contact and online administrator information.

This individual receives online administrator permissions and may grant online access to others. This contact also receives all notices.

☒ Same as primary contact

Name of entity*

Contact name*: First Last

Contact email address*

Street address*

City* State/Province* Postal code*

Country*

Phone* Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

Microsoft Document Headersheet

** This is for informational purposes only **

MSE#:

(MSLI
Tracking
Number)

5-0000004275258

Doc Type:

Amendments

Do not modify the formatting or spacing of this Form above this text

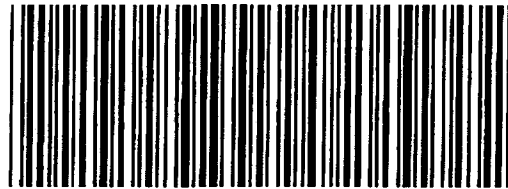
Subsidiary:

Country: **United States**

Account Manager Name / Alias:

LAR/LAD/ESA:

Insight Direct USA, Inc.



Program/Version

EA 6 2016

(Scanning Code)

ACCOUNT: County of Riverside

3

Outsourcer Name:

Business Agreement Number:

Master Agreement Number: **8084445**

Agreement Number:

Purchase Order Number:

Comments:

Amendment to Contract Documents

Agreement Number

8084445

004-kayleed-S-04

This amendment ("Amendment") is entered into between the parties identified on the attached program signature form. It amends the Enrollment or Agreement identified above. All terms used but not defined in this Amendment will have the same meanings provided in that Enrollment or Agreement.

Enterprise Agreement Custom Terms CTM

1. Section 6a, "Term", is hereby amended and restated as follows:
 - a. **Term.** The term of this Agreement will remain in effect unless terminated by either party as described below. Each Enrollment will have the term provided in that Enrollment.
2. The pricing that Microsoft will offer Enrolled Affiliate's Reseller for Enrollments effective between November 1, 2019 through October 31, 2021, and that will apply for the entire initial term of such Enrollments, is as follows:

Product	Price Level	Examples include but are not limited to the following*:
Enterprise Online Services** (including Full USLs, From SA USLs, Add-ons and Step Ups)	Level D minus 2%	M365 E3 and E5, Enterprise Mobility + Security E3 and E5, Office 365 Enterprise E1 or E3, Windows 10 Enterprise E3 or E5
Enterprise Products	Level D	Office 365 Pro Plus, Windows 10 Enterprise, Core CAL Suite, Enterprise CAL Suite
Additional Products	Level D	M365 F1, M365 E5 Compliance, M365 E5 Security, Office 365 Enterprise F1, Project Online, Visio Online Plan 1 or Plan 2, Dynamics 365, Azure, SQL Server, Windows Server, etc.
Server and Tools Product (applies to Server and Cloud Enrollments only)	Level D	SharePoint Server, SQL Server, BizTalk Server, Visual Studio, Core Infrastructure Suites, etc.

*The examples include online services that are available in either the commercial or government cloud offerings.

**Qualifying Enterprise Online Services are identified in the Product Terms with the cell value of "EO" in the tables for "Program Availability". The scope of Enterprise Online Services is subject to change as Enterprise Online Services are added, updated/revised or removed from the Enterprise program offering.

Exclusions apply to the additional 2% discount on Enterprise Online Services as follows:

- The price list month that applies to an order is not a factor in determining whether the additional 2% discount on Enterprise Online Services may be applied to an order. The only applicable factor is the effective date of the Enrollment.
- The discount does not apply to any extensions of the initial Term or renewal Enrollments.
- The discount does not apply to any promotional SKUs. Enrolled Affiliate is entitled to the lower of the promotional price or discounted price.

The price level that applies to Enrollments effective on or after November 1, 2021 is Level D for all Products.

The Reseller and the Enrolled Affiliate will determine the Enrolled Affiliate's actual price and payment terms.

Except for changes made by this Amendment, the Enrollment or Agreement identified above remains unchanged and in full force and effect. If there is any conflict between any provision in this Amendment and any provision in the Enrollment or Agreement identified above, this Amendment shall control.

This Amendment must be attached to a signature form to be valid.

Microsoft Internal Use Only:

Riverside County EA Amend 8.7.docx	CTM	CTM-CPT-OPT-FWK	BD
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Licensing Solution Provider Agreement Number PSA-0001524

This Licensing Solution Provider Agreement is made and entered into this 22nd day of October 2019, by and between Dell Marketing L.P., a Texas corporation ("CONTRACTOR"), and the COUNTY OF RIVERSIDE, a political subdivision of the State of California, ("COUNTY").

WHEREAS, COUNTY and Microsoft Corporation ("Microsoft") have entered into that certain Microsoft Enterprise Agreement (Master Agreement No. 8084445; the "Master Agreement"), effective August 23, 2019, under which COUNTY has the ability to enter into one or more enrollments to order certain Microsoft product licenses;

WHEREAS, CONTRACTOR desires to provide support to COUNTY and its Enrolled Affiliates (as defined in the Master Agreement) for said licenses under this Agreement and hereby represents that it has the skills, experience, and knowledge necessary to perform under this Agreement; and

WHEREAS, COUNTY desires to accept CONTRACTOR's services under this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

1. This Agreement covers all enrollments for all products licensed under the Master Agreement. All terms and conditions of the Master Agreement, attached as Exhibit E of this Agreement and incorporated by reference, shall apply to the purchase of related products and services.
2. This Agreement is available for use by all government entities within the State of California (an "Enrolled Affiliate") for the duration of the Term (defined below in section 4). Enrollment documents will contain the terms and conditions specific to each entity.
3. CONTRACTOR agrees to extend the same pricing, terms, and conditions as stated in this agreement to each and every government entity in the State of California. Terms and conditions are governed by this Agreement, the Master Agreement, and the applicable enrollment documents for each entity. Entities shall make purchases in their own name, make direct payment to CONTRACTOR, and be liable directly to CONTRACTOR for all obligations.
 - 3.1 COUNTY shall in no way be responsible to CONTRACTOR for Enrolled Affiliates' purchases and obligations. COUNTY shall in no way be responsible to other entities for their purchases or any acts or omissions of CONTRACTOR, including but not limited to product selection or implementation, services or other related matters.
 - 3.2 CONTRACTOR shall notify Enrolled Affiliate in writing of the terms and conditions stated in Section 11.
4. This Agreement shall be effective from November 1, 2019 through October 31, 2021, unless terminated earlier (the "Term").
5. Hold Harmless/Indemnification:
 - 5.1 CONTRACTOR shall indemnify and hold harmless the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as Indemnitees) from any liability, action, claim or damage

Licensing Solution Provider Agreement Number PSA-0001524

whatsoever, based or asserted upon any services, or acts or omissions, of CONTRACTOR, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature. CONTRACTOR shall defend the Indemnitees at its sole expense including all costs and fees (including, but not limited, to attorney fees, cost of investigation, defense and settlements or awards) in any claim or action based upon such acts, omissions or services.

- 5.2 With respect to any action or claim subject to indemnification herein by CONTRACTOR, CONTRACTOR shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of COUNTY; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes CONTRACTOR indemnification to Indemnitees as set forth herein.
- 5.3 CONTRACTOR'S obligation hereunder shall be satisfied when CONTRACTOR has provided to COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action or claim involved.
6. Contractor Responsibilities: CONTRACTOR will offer the following services to each Enrolled Affiliate at no additional charge. It is the responsibility of the Enrolled Affiliate to determine which products and/or services, if any, meet their needs and communicate that to the CONTRACTOR.
 - 6.1 Provide reports showing year to date annual spend according to Enrolled Affiliate's specifications. Frequency will be determined by each Enrolled Affiliate (monthly, quarterly, etc.).
 - 6.2 Provide a short synopsis of why an amendment is needed and the ramification of each amendment to an enrollment at the time of such amendment.
 - 6.3 Provide an updated price list on an annual basis or when requested by Enrolled Affiliate.
7. CONTRACTOR's Microsoft Enterprise Agreement license subscription price attached hereto as Exhibit A and service rates attached hereto as Exhibit B.
8. CONTRACTOR's Microsoft Enterprise Agreement Participation Form attached hereto as Exhibit C and incorporated herein by reference.
9. Usage Reporting: CONTRACTOR will provide to COUNTY the Licensed Support Provider (LSP) Reporting of Active Enrollments to Master Microsoft Enterprise Agreement No. 8084445, Select Plus Agreement No. 7756479, Microsoft Premier, Unified, and MCS Support services, showing a list of enrollments by February 15th of each year. Forms shall be submitted electronically to MasterMicrosoftAdmin@rivco.org. A copy of the form is attached hereto as Exhibit D and incorporated herein by reference.
10. Administrative fees: CONTRACTOR will be charged .5% of the annual enrollment amount to leverage the Riverside County Master Microsoft Agreement No. 8084445, Select Plus Agreement No. 7756479, Microsoft Premier, Unified, and MCS Support services. This will be an annual fee, per enrollment inclusive of Affiliates Shadow Enrollments. Example: A three-year aggregated agreement with a contract

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amount of \$300K, divisible by three years will result in an LSP Participation Fee of \$500 annually (100K*.5%). RCIT will invoice the Awarded LSP annually based on the enrollments verified from the "Reporting of Active Enrollments" list submitted by December 15th of each year. Payment is due to Riverside County Information Technology thirty (30) days from invoice date.

10.1 Riverside County Information Technology (RCIT) will invoice the CONTRACTOR annually based on the enrollments verified. Payment is due to RCIT within thirty (30) days of invoice date. The COUNTY will not accept credit as a form of payment.

10.2 Failure to meet the administrative fee requirements herein and submit fees on a timely basis may constitute grounds for immediate termination of this Agreement.

11. Contract Management: The contacts for this Agreement for COUNTY shall be both RCIT and Purchasing as listed below.

COUNTY Primary Contact:

Jim Smith
3450 14th Street
Riverside, CA 92501

COUNTY Secondary Contact:

Rick Hai
2980 Washington Street
Riverside, CA 92504

CONTRACTOR contact:

Alisson Harrington
One Dell Way
Round Rock, TX 78682

11.1 Should Contract Management contact information change, the CONTRACTOR shall provide written notice with the updated information to the COUNTY no later than 10 business days after the change.

12. Termination:

12.1 COUNTY may terminate this Agreement without cause upon thirty (30) days written notice served upon the CONTRACTOR stating the extent and effective date of termination.

12.2 COUNTY may, upon five (5) days written notice terminate this Agreement for CONTRACTOR's default, if CONTRACTOR refuses or fails to comply with the terms of this Agreement or fails to make progress that may endanger performance and does not immediately cure such failure. In the event of such termination, the COUNTY may proceed with the work in any manner deemed proper by COUNTY.

12.3 CONTRACTOR's rights under this Agreement shall terminate (except for fees accrued prior to the date of termination) upon dishonesty or a willful or material breach of this Agreement by CONTRACTOR; or in the event of CONTRACTOR's unwillingness or inability for any reason whatsoever to perform the terms of this Agreement.

13. Conduct of Contractor:

13.1 The CONTRACTOR covenants that it presently has no interest, including, but not limited to, other projects or contracts, and shall not acquire any such interest, direct or indirect, which would

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conflict in any manner or degree with CONTRACTOR's performance under this Agreement. The CONTRACTOR further covenants that no person or subcontractor having any such interest shall be employed or retained by CONTRACTOR under this Agreement. The CONTRACTOR agrees to inform the COUNTY of all the CONTRACTOR's interests, if any, which are or may be perceived as incompatible with the COUNTY's interests.

- 13.2 The CONTRACTOR shall not, under circumstances which could be interpreted as an attempt to influence the recipient in the conduct of his/her duties, accept any gratuity or special favor from individuals or firms with whom the CONTRACTOR is doing business or proposing to do business, in accomplishing the work under this Agreement.
- 13.3 The CONTRACTOR or its employees shall not offer gifts, gratuity, favors, and entertainment directly or indirectly to COUNTY employees.
- 13.4 CONTRACTOR shall establish adequate procedures for self-monitoring and quality control and assurance to ensure proper performance under this Agreement; and shall permit a COUNTY representative or other regulatory official to monitor, assess, or evaluate CONTRACTOR's performance under this Agreement at any time, upon reasonable notice to the CONTRACTOR.

14. Independent Contractor/Employment Eligibility/Non-Discrimination:

- 14.1 The CONTRACTOR is, for purposes relating to this Agreement, an independent contractor and shall not be deemed an employee of the COUNTY. It is expressly understood and agreed that the CONTRACTOR (including its employees, agents, and subcontractors) shall in no event be entitled to any benefits to which COUNTY employees are entitled, including but not limited to overtime, any retirement benefits, worker's compensation benefits, and injury leave or other leave benefits. There shall be no employer-employee relationship between the parties; and CONTRACTOR shall hold COUNTY harmless from any and all claims that may be made against COUNTY based upon any contention by a third party that an employer-employee relationship exists by reason of this Agreement. It is further understood and agreed by the parties that CONTRACTOR in the performance of this Agreement is subject to the control or direction of COUNTY merely as to the results to be accomplished and not as to the means and methods for accomplishing the results.
- 14.2 CONTRACTOR warrants that it shall make its best effort to fully comply with all federal and state statutes and regulations regarding the employment of aliens and others and to ensure that employees performing work under this Agreement meet the citizenship or alien status requirement set forth in federal statutes and regulations. CONTRACTOR shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by federal or state statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. CONTRACTOR shall retain all such documentation for all covered employees, for the period prescribed by the law.
- 14.3 CONTRACTOR shall not discriminate in the provision of services, allocation of benefits, accommodation in facilities, or employment of personnel on the basis of ethnic group identification, race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex in the performance of this Agreement; and, to the extent they shall

Licensing Solution Provider Agreement Number PSA-0001524

be found to be applicable hereto, shall comply with the provisions of the California Fair Employment and Housing Act (Gov. Code 12900 et. seq), the Federal Civil Rights Act of 1964 (P.L. 88-352), the Americans with Disabilities Act of 1990 (42 U.S.C. S1210 et seq.) and all other applicable laws or regulations.

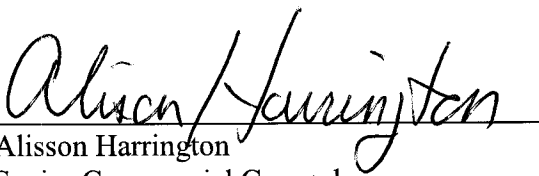
15. Entire Agreement: This Agreement, including any attachments or exhibits, constitutes the entire agreement of the parties with respect to its subject matter and supersedes all prior and contemporaneous representations, proposals, discussions and communications, whether oral or in writing. This Agreement may be changed or modified only by a written amendment signed by authorized representatives of both parties.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute this Agreement.

COUNTY OF RIVERSIDE, a political
subdivision of the State of California

Dell Marketing L.P., a Texas corporation

By: 
Kevin Jeffries, Chairman
Board of Supervisors

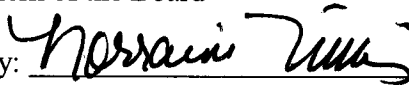
By: 
Alisson Harrington
Senior Commercial Counsel

Dated: OCT 22 2019

Dated: October 11, 2019

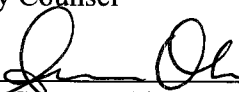
ATTEST:

Kecia Harper
Clerk of the Board

By: 
Deputy

APPROVED AS TO FORM:

Gregory P. Priamos
County Counsel

By: 
Susanna Oh, Deputy County Counsel

Licensing Solution Provider Agreement Number PSA-0001524

**Exhibit A
Microsoft Enterprise license subscription and services**

Line	Description	Price Level	Markup %
1	Enterprise Online Services** (including Full USLs, From SA USLs, Add-ons and Step Ups) M365 E3 and E5, Enterprise Mobility + Security E3 and E5, Office 365 Enterprise E1 or E3, Windows 10 Enterprise E3 or E5.	Level D Minus 2%	-0.56
2	Enterprise Products Office 365 Pro Plus, Windows 10 Enterprise, Core CAL Suite, Enterprise CAL Suite.	Level D	-0.43
3	Additional Products M365 F1, M365 E5 Compliance, M365 E5 Security, Office 365 Enterprise F1, Project Online, Visio Online Plan 1 or Plan 2, Dynamics 365, Azure, SQL Server, Windows Server, etc.	Level D	-0.43
4	Server and Tools Product (applies to Server and Cloud Enrollments only) SharePoint Server, SQL Server, BizTalk Server, Visual Studio, Core Infrastructure Suites, etc.	Level D	-0.43
5	All products for Select Plus Agreement No.7756479.		0.55
6	Microsoft Premier Support		2.00
7	Microsoft Unified Support Services		2.00
8	Microsoft Consulting Services		2.00

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**Exhibit B
License Support Provider (LSP) service rates**

Line	Description	Certified Competency (Yes/No)	Hourly Rate
Data and Artificial Intelligent			
1	Build Intelligent Apps	Yes	\$425
2	Build Intelligent Agents	Yes	\$425
3	Machine Learning	Yes	\$425
4	Internet of Things	Yes	\$425
5	Globally distributed data	Yes	\$425
6	OSS Databases	Yes	\$425
7	Cloud Scale Analytics	Yes	\$425
8	Data Platform Modernization to Azure	Yes	\$425
9	Windows Server on Azure	Yes	\$425
10	Security & Management	Yes	\$425
11	Datacenter Migration	Yes	\$425
12	Modern Business Intelligence	Yes	\$425
Biz Apps			
1	Customer Service	Yes	\$425
2	Field Service	Yes	\$425
3	Marketing	Yes	\$425
4	Talent	Yes	\$425
5	Finance and Operations	Yes	\$425
6	Business Central	Yes	\$425
7	Power Apps	Yes	\$425
8	Power BI	Yes	\$425
Apps and Infrastructure			
1	Azure Stack	Yes	\$425
2	High Performance Compute	Yes	\$425
3	Cloud Native Apps using Serverless	Yes	\$425
4	Modernize Apps	Yes	\$425
5	SAP on Azure	No	\$425
6	Linux on Azure	Yes	\$425
7	Dev Ops	Yes	\$425
8	Business Continuity & Disaster Recovery	Yes	\$425
9	Windows Server on Azure	Yes	\$425
10	Security & Management	Yes	\$425
11	Datacenter Migration	Yes	\$425

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**Exhibit B (cont.)
License Support Provider (LSP) service rates**

Line	Description	Certified Competency (Yes/No)	Hourly Rate
	Modern Workplace		
1	User Adoption & Change Management	Yes	\$425
2	Security	Yes	\$425
3	GDPR & Compliance	Yes	\$425
4	Teamwork	Yes	\$425
5	Calling & Meetings	Yes	\$425
6	Modern Desktop	Yes	\$425
7	Office 365 Migration Assistance	Yes	\$425
7a	Mail	Yes	\$425
7b	Teams	Yes	\$425
7c	SharePoint	Yes	\$425
7d	OneDrive	Yes	\$425

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Exhibit C
Microsoft LSP Participation Form

DAVE ROGERS
Assistant Chief Executive Officer
Chief Information Officer

JIM SMITH
Chief Technology Officer



JENNIFER HILBER, ACIO
Enterprise Applications Bureau

GUSTAVO VAZQUEZ, ACIO
Converged Communications Bureau
Public Safety Enterprise Communications

GIL MEHA, ACIO
Technology Services Bureau

Microsoft LSP Participation Form
(RFQ #RIVCO-2020-RFQ-0000048 Attachment 3)

Complete this form and return to: Attention: Rick Hai E-mail: RHai@rivco.org	Payment should be made to: Riverside County Information Technology 3450 14th Street, Fourth Floor Riverside, CA 92501 County of Riverside TIN #: 95-6000930
--	---

Company Name: Dell Marketing L.P.
Name: Stacie Becker Title: Proposal Manager
Address: One Dell Way
City: Round Rock Zip Code: 78682 Telephone #: 512-725-3007
Fax #/s: _____ Email: Stacie.Becker@Dell.com

The County of Riverside is the host of the Microsoft Master Agreement No. 8084445. All questions regarding the products and licensing should be directed to Microsoft.

By signing below, I am agreeing to pay the participation fees for each enrollment that is established by leveraging the County of Riverside Master Agreement in accordance to the schedule referenced on RFQ #RIVCO-2020-RFQ-0000048 and any subsequent contracts and / or amendments.

By signing below, I also agree that all enrollments will be submitted to Microsoft direct, to report enrollment activity and comply to the payment schedule per RFQ #RIVCO-2020-RFQ-0000048 to Riverside County Information Technology

Please reference the remittance information above for where to send the payment. Failure to comply may result in the award being rescinded.

Stacie Becker
Signature

Stacie Becker
Printed Name

September 19, 2019
Date

Proposal Manager
Title

Licensing Solution Provider Agreement Number PSA-0001524

**Exhibit D
Microsoft LSP Reporting of Active Enrollments Form**

LSP Name	<i>Company name</i>							
RIVCO Contract ID	<i>RIVCO-20800-00x-xx/xx</i>							
Microsoft Agreement Numbers	01E69633, 01E73134, AND NEW							
Master Enrollment	Enrollment Number:	Enrollment Entity:	Start Date:	End Date:	Annual Spend	Enrollment Contact:	Enrollment Contact Email:	Enrollment Contact Tel:
8084445	87654321	Riverside County Information Technology	1/01/12	12/31/16	\$645,000.00	John Doe	John.Doe@riverside.org	951-555-1212
							-	
							-	
							-	

Licensing Solution Provider Agreement Number PSA-0001524

**Exhibit E
Master Agreement**

Attached include the followings:

- 1) Signature Form
- 2) Microsoft Enterprise Agreement
- 3) Microsoft Enterprise Agreement Amendment

Microsoft Document Headersheet

** This is for informational purposes only **

MSE#:

(MSLI
Tracking
Number)

5-0000004275258

Doc Type:

Signature Form

Do not modify the formatting or spacing of this Form above this text

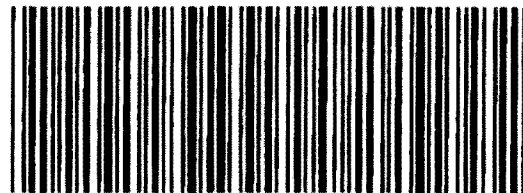
Subsidiary:

Country: **United States**

Account Manager Name / Alias:

LAR/LAD/ESA:

Insight Direct USA, Inc.



Program/Version

EA 6 2016

(Scanning Code)

ACCOUNT: County of Riverside

3

Outsourcer Name:

Business Agreement Number:

Master Agreement Number: **8084445**

Agreement Number:

Purchase Order Number:

Comments:



Volume Licensing

Program Signature Form

MBA/MBSA number

Agreement number

808444S

004-kayleed-S-04

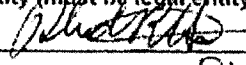
Note: Enter the applicable active numbers associated with the documents below. Microsoft requires the associated active number be indicated here, or listed below as new.

For the purposes of this form, "Customer" can mean the signing entity, Enrolled Affiliate, Government Partner, Institution, or other party entering into a volume licensing program agreement.

This signature form and all contract documents identified in the table below are entered into between the Customer and the Microsoft Affiliate signing, as of the effective date identified below.

Contract Document	Number or Code
Enterprise Agreement	X20-10209
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
Amendment to Contract Documents	CTM-CPT-OPT-FWK (new)

By signing below, Customer and the Microsoft Affiliate agree that both parties (1) have received, read and understand the above contract documents, including any websites or documents incorporated by reference and any amendments and (2) agree to be bound by the terms of all such documents.

Customer
Name of Entity (must be legal entity name)* County of Riverside
Signature* 
Printed First and Last Name* Richard R. Hai
Printed Title Sr. Procurement Contract Specialist
Signature Date* 08/22/2019
Tax ID

* indicates required field

FORM APPROVED COUNTY COUNSEL
BY:  SUSANNA N. OH
DATE: 8/22/19

Microsoft Affiliate	
Microsoft Corporation	
Signature 	 Microsoft Microsoft Corporation AUG 23 2019 Chance Krail Duly Authorized on behalf of Microsoft Corporation
Printed First and Last Name	
Printed Title	
Signature Date (date Microsoft Affiliate countersigns)	
Agreement Effective Date (may be different than Microsoft's signature date)	
8/23/2019	

Optional 2nd Customer signature or Outsourcer signature (if applicable)

Customer
Name of Entity (must be legal entity name)*
Signature* _____
Printed First and Last Name*
Printed Title
Signature Date*

* indicates required field

Outsourcer
Name of Entity (must be legal entity name)*
Signature* _____
Printed First and Last Name*
Printed Title
Signature Date*

* indicates required field

If Customer requires physical media, additional contacts, or is reporting multiple previous Enrollments, include the appropriate form(s) with this signature form.

After this signature form is signed by the Customer, send it and the Contract Documents to Customer's channel partner or Microsoft account manager, who must submit them to the following address. When the signature form is fully executed by Microsoft, Customer will receive a confirmation copy.

Microsoft Corporation
Dept. 551, Volume Licensing
6100 Neil Road, Suite 210
Reno, Nevada 89511-1137
USA

Microsoft Document Headersheet

** This is for informational purposes only **

MSE#:

(MSLI
Tracking
Number)

5-0000004275258

Doc Type:

[REDACTED] Agreement

Do not modify the formatting or spacing of this Form above this text

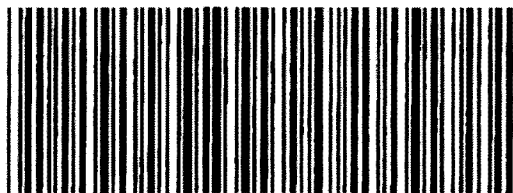
Subsidiary:

Country: **United States**

Account Manager Name / Alias:

LAR/LAD/ESA:

Insight Direct USA, Inc.



Program/Version

EA 6 2016

(Scanning Code)

ACCOUNT: County of Riverside

Outsourcer Name:

Business Agreement Number:

Master Agreement Number: **8084445**

Agreement Number:

Purchase Order Number:

15

Comments:

8/23/2019 9:42:31 PM



Enterprise Agreement

State and Local

Not for Use with Microsoft Business Agreement or Microsoft Business and Services Agreement

This Microsoft Enterprise Agreement ("Agreement") is entered into between the entities identified on the signature form.

Effective date. The effective date of this Agreement is the earliest effective date of any Enrollment entered into under this Agreement or the date Microsoft accepts this Agreement, whichever is earlier.

This Agreement consists of (1) these Agreement terms and conditions, including any amendments and the signature form and all attachments identified therein, (2) the Product Terms applicable to Products licensed under this Agreement, (3) the Online Services Terms, (4) any Affiliate Enrollment entered into under this Agreement, and (5) any order submitted under this Agreement.

Please note: Documents referenced in this Agreement but not attached to the signature form may be found at <http://www.microsoft.com/licensing/contracts> and are incorporated in this Agreement by reference, including the Product Terms and Use Rights. These documents may contain additional terms and conditions for Products licensed under this Agreement and may be changed from time to time. Customer should review such documents carefully, both at the time of signing and periodically thereafter, and fully understand all terms and conditions applicable to Products licensed.

Terms and Conditions

1. Definitions.

"Affiliate" means

- a. with regard to Customer,
 - (i) any government agency, department, office, instrumentality, division, unit or other entity of the state or local government that is supervised by or is part of Customer, or which supervises Customer or of which Customer is a part, or which is under common supervision with Customer;
 - (ii) any county, borough, commonwealth, city, municipality, town, township, special purpose district, or other similar type of governmental instrumentality established by the laws of Customer's state and located within Customer's state jurisdiction and geographic boundaries; and
 - (iii) any other entity in Customer's state expressly authorized by the laws of Customer's state to purchase under state contracts; provided that a state and its Affiliates shall not, for purposes of this definition, be considered to be Affiliates of the federal government and its Affiliates; and
- b. with regard to Microsoft, any legal entity that Microsoft owns, that owns Microsoft, or that is under common ownership with Microsoft.

"Customer" means the legal entity that has entered into this Agreement with Microsoft.

"Customer Data" means all data, including all text, sound, software, image, or video files that are provided to Microsoft by, or on behalf of, an Enrolled Affiliate and its Affiliates through use of Online Services.

"day" means a calendar day, except for references that specify "business day".

"Enrolled Affiliate" means an entity, either Customer or any one of Customer's Affiliates that has entered into an Enrollment under this Agreement.

"Enrollment" means the document that an Enrolled Affiliate submits under this Agreement to place orders for Products.

"Enterprise" means an Enrolled Affiliate and the Affiliates for which it is responsible and chooses on its Enrollment to include in its enterprise.

"Fixes" means Product fixes, modifications or enhancements, or their derivatives, that Microsoft either releases generally (such as Product service packs) or provides to Customer to address a specific issue.

"License" means the right to download, install, access and use a Product. For certain Products, a License may be available on a fixed term or subscription basis ("Subscription License"). Licenses for Online Services will be considered Subscription Licenses.

"Microsoft" means the Microsoft Affiliate that has entered into this Agreement or an Enrollment and its Affiliates, as appropriate.

"Online Services" means the Microsoft-hosted services identified as Online Services in the Product Terms.

"Online Services Terms" means the additional terms that apply to Customer's use of Online Services published on the Volume Licensing Site and updated from time to time.

"Product" means all products identified in the Product Terms, such as all Software, Online Services and other web-based services, including pre-release or beta versions.

"Product Terms" means the document that provides information about Microsoft Products and Professional Services available through volume licensing. The Product Terms document is published on the Volume Licensing Site and is updated from time to time.

"SLA" means Service Level Agreement, which specifies the minimum service level for Online Services and is published on the Volume Licensing Site.

"Software" means licensed copies of Microsoft software identified on the Product Terms. Software does not include Online Services, but Software may be part of an Online Service.

"Software Assurance" is an offering by Microsoft that provides new version rights and other benefits for Products as further described in the Product Terms.

"Trade Secret" means information that is not generally known or readily ascertainable to the public, has economic value as a result, and has been subject to reasonable steps under the circumstances to maintain its secrecy.

"use" or "run" means to copy, install, use, access, display, run or otherwise interact.

"Use Rights" means the use rights or terms of service for each Product published on the Volume Licensing Site and updated from time to time. The Use Rights supersede the terms of any end user license agreement that accompanies a Product. The Use Rights for Software are published by Microsoft in the Product Terms. The Use Rights for Online Services are published in the Online Services Terms.

"Volume Licensing Site" means <http://www.microsoft.com/licensing/contracts> or a successor site.

2. How the Enterprise program works.

- a. **General.** The Enterprise program consists of the terms and conditions on which an Enrolled Affiliate may acquire Product Licenses. Under the Enterprise program, Customer and its Affiliates may order Licenses for Products by entering into Enrollments.
- b. **Enrollments.** The Enterprise program gives Customer and/or its Affiliates the ability to enter into one or more Enrollments to order Products. Subscription Enrollments may be available for some of these Enrollments. Notwithstanding any other provision of this Agreement, only Enrolled Affiliates identified in an Enrollment will be responsible for complying with the terms of that Enrollment, including the terms of this Agreement incorporated by reference in that Enrollment.

- c. **Licenses.** The types of Licenses available are (1) Licenses obtained under Software Assurance (L&SA), and (2) Subscription Licenses. These License types, as well as additional License Types, are further described in the Product List.

3. **Licenses for Products.**

- a. **License Grant.** Microsoft grants the Enterprise a non-exclusive, worldwide and limited right to download, install and use software Products, and to access and use the Online Services, each in the quantity ordered under an Enrollment. The rights granted are subject to the terms of this Agreement, the Use Rights and the Product Terms. Microsoft reserves all rights not expressly granted in this Agreement.
- b. **Duration of Licenses.** Subscription Licenses and most Software Assurance rights are temporary and expire when the applicable Enrollment is terminated or expires, unless the Enrolled Affiliate exercises a buy-out option, which is available for some Subscription Licenses. Except as otherwise noted in the applicable Enrollment or Use Rights, all other Licenses become perpetual only when all payments for that License have been made and the initial Enrollment term has expired.
- c. **Applicable Use Rights.**
- (i) **Products (other than Online Services).** The Use Rights in effect on the effective date of the applicable Enrollment term will apply to Enterprise's use of the version of each Product that is current at the time. For future versions and new Products, the Use Rights in effect when those versions and Products are first released will apply. Changes Microsoft makes to the Use Rights for a particular version will not apply unless the Enrolled Affiliate chooses to have those changes apply. The Use Rights applicable to perpetual Licenses that were acquired under a previous agreement or Enrollment are determined by the Agreement or Enrollment under which they were acquired. Renewal of Software Assurance does not change which Use Rights apply to those Licenses.
 - (ii) **Online Services.** For Online Services, the Use Rights in effect on the subscription start date will apply for the subscription term as defined in the Product Terms.
- d. **Downgrade rights.** Enrolled Affiliate may use an earlier version of a Product other than Online Services than the version that is current on the effective date of the Enrollment. For Licenses acquired in the current Enrollment term, the Use Rights for the current version apply to the use of the earlier version. If the earlier Product version includes features that are not in the new version, then the Use Rights applicable to the earlier version apply with respect to those features.
- e. **New Version Rights under Software Assurance.** Enrolled Affiliate must order and maintain continuous Software Assurance coverage for each License ordered. With Software Assurance coverage, Enterprise automatically has the right to use a new version of a licensed Product as soon as it is released, even if Enrolled Affiliate chooses not to use the new version immediately.
- (i) Except as otherwise permitted under an Enrollment, use of the new version will be subject to the new version's Use Rights.
 - (ii) If the License for the earlier version of the Product is perpetual at the time the new version is released, the License for the new version will also be perpetual. Perpetual Licenses obtained through Software Assurance replace any perpetual Licenses for the earlier version.
- f. **License confirmation.** This Agreement, the applicable Enrollment, Enrolled Affiliate's order confirmation, and any documentation evidencing transfers of perpetual Licenses, together with proof of payment, will be Enrolled Affiliate's evidence of all Licenses obtained under an Enrollment.

- g. **Reorganizations, consolidations and privatizations.** If the number of Licenses covered by an Enrollment changes by more than ten percent as a result of (1) a reorganization, consolidation or privatization of an entity or an operating division, (2) a privatization of an Affiliate or an operating division of Enrolled Affiliate or any of its Affiliates, or (3) a consolidation including a merger with a third party that has an existing agreement or Enrollment, Microsoft will work with Enrolled Affiliate in good faith to determine how to accommodate its changed circumstances in the context of this Agreement.

4. Making copies of Products and re-imaging rights.

- a. **General.** Enrolled Affiliate may make as many copies of Products, as it needs to distribute them within the Enterprise. Copies must be true and complete (including copyright and trademark notices) from master copies obtained from a Microsoft approved fulfillment source. Enrolled Affiliate may use a third party to make these copies, but Enrolled Affiliate agrees it will be responsible for any third party's actions. Enrolled Affiliate agrees to make reasonable efforts to notify its employees, agents, and any other individuals who use the Products that the Products are licensed from Microsoft and subject to the terms of this Agreement.
- b. **Copies for training/evaluation and back-up.** For all Products other than Online Services, Enrolled Affiliate may: (1) use up to 20 complimentary copies of any licensed Product in a dedicated training facility on its premises for purposes of training on that particular Product, (2) use up to 10 complimentary copies of any Products for a 60-day evaluation period, and (3) use one complimentary copy of any licensed Product for back-up or archival purposes for each of its distinct geographic locations. Trials for Online Services may be available if specified in the Use Rights.
- c. **Right to re-image.** In certain cases, re-imaging is permitted using the Product media. If the Microsoft Product is licensed (1) from an original equipment manufacturer (OEM), (2) as a full packaged Product through a retail source, or (3) under another Microsoft program, then media provided under this Agreement may generally be used to create images for use in place of copies provided through that separate source. This right is conditional upon the following:
- (i) Separate Licenses must be acquired from the separate source for each Product that is re-imaged.
 - (ii) The Product, language, version, and components of the copies made must be identical to the Product, language, version, and all components of the copies they replace and the number of copies or instances of the re-imaged Product permitted remains the same.
 - (iii) Except for copies of an operating system and copies of Products licensed under another Microsoft program, the Product type (e.g., Upgrade or full License) re-imaged must be identical to the Product type licensed from the separate source.
 - (iv) Enrolled Affiliate must adhere to any Product-specific processes or requirements for re-imaging identified in the Product Terms.

Re-imaged Products remain subject to the terms and use rights of the License acquired from the separate source. This subsection does not create or extend any Microsoft warranty or support obligation.

5. Transferring and reassigning Licenses.

- a. **License transfers.** License transfers are not permitted, except that Customer or an Enrolled Affiliate may transfer only fully-paid perpetual Licenses to:
- (i) an Affiliate, or
 - (ii) a third party solely in connection with the transfer of hardware or employees to whom the Licenses have been assigned as part of (A) a privatization of an Affiliate or agency or of an

operating division of Enrolled Affiliate or an Affiliate. (B) a reorganization, or (C) a consolidation.

Upon such transfer, Customer or Enrolled Affiliate must uninstall and discontinue using the licensed Product and render any copies unusable.

- b. **Notification of License Transfer.** Enrolled Affiliate must notify Microsoft of a License transfer by completing a license transfer form, which can be obtained from <http://www.microsoft.com/licensing/contracts> and sending the completed form to Microsoft before the License transfer. No License transfer will be valid unless Enrolled Affiliate provides to the transferee, and the transferee accepts in writing, documents sufficient to enable the transferee to ascertain the scope, purpose and limitations of the rights granted by Microsoft under the licenses being transferred (including the applicable Use Rights, use and transfer restrictions, warranties and limitations of liability). Any License transfer not made in compliance with this section will be void.
- c. **Internal Assignment of Licenses and Software Assurance.** Licenses and Software Assurance must be assigned to a single user or device within the Enterprise. Licenses and Software Assurance may be reassigned within the Enterprise as described in the Use Rights.

6. **Term and termination.**

- a. **Term.** The term of this Agreement will be 36 full calendar months from the effective date unless terminated by either party as described below. Each Enrollment will have the term provided in that Enrollment.
- b. **Termination without cause.** Either party may terminate this Agreement, without cause, upon 60 days' written notice. In the event of termination, new Enrollments will not be accepted, but any existing Enrollment will continue for the term of such Enrollment and will continue to be governed by this Agreement.
- c. **Mid-term termination for non-appropriation of Funds.** Enrolled Affiliate may terminate this Agreement or an Enrollment without liability, penalty or further obligation to make payments if funds to make payments under the Agreement or Enrollment are not appropriated or allocated by the Enrolled Affiliate for such purpose.
- d. **Termination for cause.** Without limiting any other remedies it may have, either party may terminate an Enrollment if the other party materially breaches its obligations under this Agreement, including any obligation to submit orders or pay invoices. Except where the breach is by its nature not curable within 30 days, the terminating party must give the other party 30 days' notice of its intent to terminate and an opportunity to cure the breach.

If Microsoft gives such notice to an Enrolled Affiliate, Microsoft also will give Customer a copy of that notice and Customer agrees to help resolve the breach. If the breach affects other Enrollments and cannot be resolved between Microsoft and Enrolled Affiliate, together with Customer's help, within a reasonable period of time, Microsoft may terminate this Agreement and all Enrollments under it. If an Enrolled Affiliate ceases to be Customer's Affiliate, it must promptly notify Microsoft, and Microsoft may terminate the former Affiliate's Enrollment. If an Enrolled Affiliate terminates its Enrollment as a result of a breach by Microsoft, or if Microsoft terminates an Enrollment because Enrolled Affiliate ceases to be Customer's Affiliate, then Enrolled Affiliate will have the early termination rights described in the Enrollment.

- e. **Early termination.** If (1) an Enrolled Affiliate terminates its Enrollment as a result of a breach by Microsoft, or (2) if Microsoft terminates an Enrollment because the Enrolled Affiliate has ceased to be an Affiliate of Customer, or (3) Enrolled Affiliate terminates an Enrollment for non-appropriation of funds, or (4) Microsoft terminates an Enrollment for non-payment due to non-appropriation of funds, then the Enrolled Affiliate will have the following options:

- (i) It may immediately pay the total remaining amount due, including all installments, in which case, the Enrolled Affiliate will have perpetual rights for all Licenses it has ordered; or

(ii) It may pay only amounts due as of the termination date, in which case the Enrolled Affiliate will have perpetual Licenses for:

- 1) all copies of Products (including the latest version of Products ordered under SA coverage in the current term) for which payment has been made in full, and
- 2) the number of copies of Products it has ordered (including the latest version of Products ordered under Software Assurance coverage in current term) that is proportional to the total of installment payments paid versus total amounts due (paid and payable) if the early termination had not occurred.

(iii) In the case of early termination under subscription Enrollments, Enrolled Affiliate will have the following options:

- 1) For eligible Products, Enrolled Affiliate may obtain perpetual Licenses as described in the section of the Enrollment titled "Buy-out option," provided that Microsoft receives the buy-out order for those Licenses within 60 days after Enrolled Affiliate provides notice of termination.
- 2) In the event of a breach by Microsoft, if Customer chooses not to exercise a buy-out option, Microsoft will issue Enrolled Affiliate a credit for any amount paid in advance for Subscription Licenses that the Enterprise will not be able to use to do the termination of the Enrollment.

Nothing in this section shall affect perpetual License rights acquired either in a separate agreement or in a prior term of the terminated Enrollment.

f. Effect of termination or expiration. When an Enrollment expires or is terminated,

- (i) Enrolled Affiliate must order Licenses for all copies of Products it has run for which it has not previously submitted an order. Any and all unpaid payments for any order of any kind remain due and payable. Except as provided in the subsection titled "Early termination," all unpaid payments for Licenses immediately become due and payable.
- (ii) Enrolled Affiliate's right to Software Assurance benefits under this Agreement ends if it does not renew Software Assurance.

g. Modification or termination of an Online Service for regulatory reasons. Microsoft may modify or terminate an Online Service where there is any current or future government requirement or obligation that: (1) subjects Microsoft to any regulation or requirement not generally applicable to businesses operating in the jurisdiction; (2) presents a hardship for Microsoft to continue operating the Online Service without modification; and/or (3) causes Microsoft to believe these terms or the Online Service may conflict with any such requirement or obligation.

h. Program updates. Microsoft may make changes to this program that will make it necessary for Customer and its Enrolled Affiliates to enter into new agreements and Enrollments at the time of an Enrollment renewal.

7. Use, ownership, rights, and restrictions.

- a. **Products.** Unless otherwise specified in a supplemental agreement, use of any Product is governed by the Use Rights specific to each Product and version and by the terms of the applicable supplemental agreement.
- b. **Fixes.** Each Fix is licensed under the same terms as the Product to which it applies. If a Fix is not provided for a specific Product, any use rights Microsoft provides with the Fix will apply.
- c. **Non-Microsoft software and technology.** Enrolled Affiliate is solely responsible for any non-Microsoft software or technology that it installs or uses with the Products or Fixes.

- d. **Restrictions.** Enrolled Affiliate must not (and is not licensed to) (1) reverse engineer, decompile, or disassemble any Product or Fix; (2) install or use non-Microsoft software or technology in any way that would subject Microsoft's intellectual property or technology to any other license terms; or (3) work around any technical limitations in a Product or Fix or restrictions in Product documentation. Customer must not (and is not licensed to) (i) separate and run parts of a Product or Fix on more than one device, upgrade or downgrade parts of a Product or Fix at different times, or transfer parts of a Product or Fix separately; or (ii) distribute, sublicense, rent, lease, lend any Products or Fixes, in whole or in part, or use them to offer hosting services to a third party.
- e. **Reservation of rights.** Products and Fixes are protected by copyright and other intellectual property rights laws and international treaties. Microsoft reserves all rights not expressly granted in this agreement. No rights will be granted or implied by waiver or estoppel. Rights to access or use Software on a device do not give Customer any right to implement Microsoft patents or other Microsoft intellectual property in the device itself or in any other software or devices.

8. Confidentiality.

"Confidential Information" is non-public information that is designated "confidential" or that a reasonable person should understand is confidential, including Customer Data. Confidential Information does not include information that (a) becomes publicly available without a breach of this agreement, (b) the receiving party received lawfully from another source without a confidentiality obligation, (c) is independently developed, or (d) is a comment or suggestion volunteered about the other party's business, products or services.

Each party will take reasonable steps to protect the other's Confidential Information and will use the other party's Confidential Information only for purposes of the parties' business relationship. Neither party will disclose that Confidential Information to third parties, except to its employees, Affiliates, contractors, advisors and consultants ("Representatives") and then only on a need-to-know basis under nondisclosure obligations at least as protective as this agreement. Each party remains responsible for the use of the Confidential Information by its Representatives and, in the event of discovery of any unauthorized use or disclosure, must promptly notify the other party.

A party may disclose the other's Confidential Information if required by law, but only after it notifies the other party (if legally permissible) to enable the other party to seek a protective order.

Neither party is required to restrict work assignments of its Representatives who have had access to Confidential Information. Each party agrees that the use of information retained in Representatives' unaided memories in the development or deployment of the parties' respective products or services does not create liability under this Agreement or trade secret law, and each party agrees to limit what it discloses to the other accordingly.

These obligations apply (i) for Customer Data until it is deleted from the Online Services, and (ii) for all other Confidential Information, for a period of five years after a party receives the Confidential Information.

9. Privacy and compliance with laws.

- a. Enrolled Affiliate consents to the processing of personal information by Microsoft and its agents to facilitate the subject matter of this Agreement. Enrolled Affiliate will obtain all required consents from third parties under applicable privacy and data protection law before providing personal information to Microsoft.
- b. Personal information collected under this agreement (i) may be transferred, stored and processed in the United States or any other country in which Microsoft or its service providers maintain facilities and (ii) will be subject to the privacy terms specified in the Use Rights. Microsoft will abide by the requirements of European Economic Area and Swiss data protection

law regarding the collection, use, transfer, retention, and other processing of personal data from the European Economic Area and Switzerland.

- c. **U.S. export.** Products and Fixes are subject to U.S. export jurisdiction. Enrolled Affiliate must comply with all applicable international and national laws, including the U.S. Export Administration Regulations and International Traffic in Arms Regulations, and end-user, end use and destination restrictions issued by U.S. and other governments related to Microsoft products, services and technologies.

10. Warranties.

a. Limited warranties and remedies.

- (i) **Software.** Microsoft warrants that each version of the Software will perform substantially as described in the applicable Product documentation for one year from the date the Enterprise is first licensed for that version. If it does not and the Enterprise notifies Microsoft within the warranty term, then Microsoft will, at its option (1) return the price Enrolled Affiliate paid for the Software license, or (2) repair or replace the Software.
- (ii) **Online Services.** Microsoft warrants that each Online Service will perform in accordance with the applicable SLA during the Enterprise's use. The Enterprise's remedies for breach of this warranty are in the SLA.

The remedies above are the Enterprise's sole remedies for breach of the warranties in this section. Customer waives any breach of warranty claims not made during the warranty period.

- b. **Exclusions.** The warranties in this agreement do not apply to problems caused by accident, abuse, or use in a manner inconsistent with this Agreement, including failure to meet minimum system requirements. These warranties do not apply to free, trial, pre-release, or beta products, or to components of Products that Enrolled Affiliate is permitted to redistribute.
- c. **Disclaimer.** Except for the limited warranties above, Microsoft provides no other warranties or conditions and disclaims any other express, implied, or statutory warranties, including warranties of quality, title, non-infringement, merchantability, and fitness for a particular purpose.

11. Defense of third party claims.

The parties will defend each other against the third-party claims described in this section and will pay the amount of any resulting adverse final judgment or approved settlement, but only if the defending party is promptly notified in writing of the claim and has the right to control the defense and any settlement of it. The party being defended must provide the defending party with all requested assistance, information, and authority. The defending party will reimburse the other party for reasonable out-of-pocket expenses it incurs in providing assistance. This section describes the parties' sole remedies and entire liability for such claims.

- a. **By Microsoft.** Microsoft will defend Enrolled Affiliate against any third-party claim to the extent it alleges that a Product or Fix made available by Microsoft for a fee and used within the scope of the license granted (unmodified from the form provided by Microsoft and not combined with anything else) misappropriates a trade secret or directly infringes a patent, copyright, trademark or other proprietary right of a third party. If Microsoft is unable to resolve a claim of infringement under commercially reasonable terms, it may, at its option, either (1) modify or replace the Product or Fix with a functional equivalent; or (2) terminate Enrolled Affiliate's license and refund any prepaid license fees (less depreciation on a five-year, straight-line basis) for perpetual licenses and any amount paid for Online Services for any usage period after the termination date. Microsoft will not be liable for any claims or damages due to Enrolled Affiliate's continued use of a Product or Fix after being notified to stop due to a third-party claim.
- b. **By Enrolled Affiliate.** To the extent permitted by applicable law, Enrolled Affiliate will defend Microsoft against any third-party claim to the extent it alleges that: (1) any Customer Data or

non-Microsoft software hosted in an Online Service by Microsoft on Enrolled Affiliate's behalf misappropriates a trade secret or directly infringes a patent, copyright, trademark, or other proprietary right of a third party; or (2) Enrolled Affiliate's use of any Product or Fix, alone or in combination with anything else, violates the law or damages a third party.

12. Limitation of liability.

For each Product, each party's maximum, aggregate liability to the other under this Agreement is limited to direct damages finally awarded in an amount not to exceed the amounts Enrolled Affiliate was required to pay for the applicable Products during the term of this Agreement, subject to the following:

- a. **Online Services.** For Online Services, Microsoft's maximum liability to Enrolled Affiliate for any incident giving rise to a claim will not exceed the amount Enrolled Affiliate paid for the Online Service during the 12 months before the incident.
- b. **Free Products and Distributable Code.** For Products provided free of charge and code that Enrolled Affiliate is authorized to redistribute to third parties without separate payment to Microsoft, Microsoft's liability is limited to direct damages finally awarded up to US\$5,000.
- c. **Exclusions.** In no event will either party be liable for indirect, incidental, special, punitive, or consequential damages, or for loss of use, loss of business information, loss of revenue, or interruption of business, however caused or on any theory of liability.
- d. **Exceptions.** No limitation or exclusions will apply to liability arising out of either party's (1) confidentiality obligations (except for all liability related to Customer Data, which will remain subject to the limitations and exclusions above); (2) defense obligations; or (3) violation of the other party's intellectual property rights.

13. Verifying compliance.

- a. **Right to verify compliance.** Enrolled Affiliate must keep records relating to all use and distribution of Products by Enrolled Affiliate and its Affiliates. Microsoft has the right, at its expense, to the extent permitted by applicable law, to verify compliance with the Product's license terms. Enrolled Affiliate must promptly provide the independent auditor with any information the auditor reasonably requests in furtherance of the verification, including access to systems running the Products and evidence of Licenses for Products Enrolled Affiliate hosts, sublicenses, or distributes to third parties. Enrolled Affiliate agrees to complete Microsoft's self-audit process, which Microsoft may require as an alternative to a third party audit.
- b. **Remedies for non-compliance.** If verification or self-audit reveals any unlicensed use or distribution, then within 30 days, (1) Enrolled Affiliate must order sufficient Licenses to cover that use or distribution, and (2) if unlicensed use or distribution is 5% or more, Enrolled Affiliate must reimburse Microsoft for the cost Microsoft has incurred in verification and acquire the necessary additional licenses at 125% of the price based on the then-current price list and Enrolled Affiliate price level. The unlicensed use percentage is based on the total number of licenses purchased compared to actual install base. If there is no unlicensed use, Microsoft will not subject Enrolled Affiliate to another verification for at least one year. By exercising the rights and procedures described above, Microsoft does not waive its rights to enforce this Agreement or to protect its intellectual property by any other means permitted by law.
- c. **Verification process.** Microsoft will notify Enrolled Affiliate at least 30 days in advance of its intent to verify Enrolled Affiliate's compliance with the license terms for the Products Enrolled Affiliate and its Affiliates use or distribute. Microsoft will engage an independent auditor, which will be subject to a confidentiality obligation. Any information collected in the self-audit will be used solely for purposes of determining compliance. This verification will take place during normal business hours and in a manner that does not interfere unreasonably with Enrolled Affiliate's operations.

14. **Miscellaneous.**

- a. **Use of contractors.** Microsoft may use contractors to perform services, but will be responsible for their performance subject to the terms of this Agreement.
- b. **Microsoft as independent contractor.** The parties are independent contractors. Enrolled Affiliate and Microsoft each may develop products independently without using the other's Confidential Information.
- c. **Notices.** Notices to Microsoft must be sent to the address on the signature form. Notices must be in writing and will be treated as delivered on the date shown on the return receipt or on the courier or fax confirmation of delivery. Microsoft may provide information to Enrolled Affiliate about upcoming ordering deadlines, services, and subscription information in electronic form, including by email to contacts provided by Enrolled Affiliate. Emails will be treated as delivered on the transmission date.
- d. **Agreement not exclusive.** Customer is free to enter into agreements to license, use or promote non-Microsoft products.
- e. **Amendments.** Any amendment to this Agreement must be executed by both parties, except that Microsoft may change the Product Terms and the Use Rights from time to time in accordance with the terms of this Agreement. Any conflicting terms and conditions contained in an Enrolled Affiliate's purchase order will not apply. Microsoft may require Customer to sign a new agreement or an amendment before an Enrolled Affiliate enters into an Enrollment under this agreement.
- f. **Assignment.** Either party may assign this Agreement to an Affiliate, but must notify the other party in writing of the assignment. Any other proposed assignment must be approved by the non-assigning party in writing. Assignment will not relieve the assigning party of its obligations under the assigned agreement. Any attempted assignment without required approval will be void.
- g. **Applicable law; dispute resolution.** The terms of this Agreement will be governed by the laws of Customer's state, without giving effect to its conflict of laws. Disputes relating to this Agreement will be subject to applicable dispute resolution laws of Customer's state.
- h. **Severability.** If any provision in this agreement is held to be unenforceable, the balance of the agreement will remain in full force and effect.
- i. **Waiver.** Failure to enforce any provision of this agreement will not constitute a waiver. Any waiver must be in writing and signed by the waiving party.
- j. **No third-party beneficiaries.** This Agreement does not create any third-party beneficiary rights.
- k. **Survival.** All provisions survive termination or expiration of this Agreement except those requiring performance only during the term of the Agreement.
- l. **Management and Reporting.** Customer and/or Enrolled Affiliate may manage account details (e.g., contacts, orders, Licenses, software downloads) on Microsoft's Volume Licensing Service Center ("VLSC") web site (or successor site) at: <https://www.microsoft.com/licensing/servicecenter>. Upon the effective date of this Agreement and any Enrollments, the contact(s) identified for this purpose will be provided access to this site and may authorize additional users and contacts.
- m. **Order of precedence.** In the case of a conflict between any documents in this Agreement that is not expressly resolved in those documents, their terms will control in the following order from highest to lowest priority: (1) this Enterprise Agreement, (2) any Enrollment, (3) the Product Terms, (4) the Online Services Terms, (5) orders submitted under this Agreement, and (6) any other documents in this Agreement. Terms in an amendment control over the amended document and any prior amendments concerning the same subject matter.

- n. **Free Products.** It is Microsoft's intent that the terms of this Agreement and the Use Rights be in compliance with all applicable federal law and regulations. Any free Product provided to Enrolled Affiliate is for the sole use and benefit of the Enrolled Affiliate, and is not provided for use by or personal benefit of any specific government employee.
- o. **Voluntary Product Accessibility Templates.** Microsoft supports the government's obligation to provide accessible technologies to its citizens with disabilities as required by Section 508 of the Rehabilitation Act of 1973, and its state law counterparts. The Voluntary Product Accessibility Templates ("VPATs") for the Microsoft technologies used in providing the Online Services can be found at Microsoft's VPAT page. Further information regarding Microsoft's commitment to accessibility can be found at <http://www.microsoft.com/enable>.
- p. **Natural disaster.** In the event of a "natural disaster," Microsoft may provide additional assistance or rights by posting them on <http://www.microsoft.com> at such time.
- q. **Copyright violation.** Except as set forth in the section above entitled "Transferring and reassigning Licenses", the Enrolled Affiliate agrees to pay for, and comply with the terms of this Agreement and the Use Rights, for the Products it uses. Except to the extent Enrolled Affiliate is licensed under this Agreement, it will be responsible for its breach of this contract and violation of Microsoft's copyright in the Products, including payment of License fees specified in this Agreement for unlicensed use.

Supplemental Contact Information Form

This form can be used in combination with MBSA, Agreement, and Enrollment/Registration. However, a separate form must be submitted for each enrollment/registration, when more than one is submitted on a signature form. For the purposes of this form, "entity" can mean the signing entity, Customer, Enrolled Affiliate, Government Partner, Institution, or other party entering into a volume licensing program agreement. Primary and Notices contacts in this form will not apply to enrollments or registrations.

This form applies to:

- ☐ MBSA
☒ Agreement
☐ Enrollment/Affiliate Registration Form

Insert primary entity name if more than one Enrollment/Registration Form is submitted

Contact information.

Each party will notify the other in writing if any of the information in the following contact information page(s) changes. The asterisks (*) indicate required fields; if the entity chooses to designate other contact types, the same required fields must be completed for each section. By providing contact information, entity consents to its use for purposes of administering the Enrollment by Microsoft and other parties that help Microsoft administer this Enrollment. The personal information provided in connection with this agreement will be used and protected according to the privacy statement available at <https://licensing.microsoft.com>.

1. Additional notices contact.

This contact receives all notices that are sent from Microsoft. No online access is granted to this individual.

Name of entity* County of Riverside
 Contact name*: First Regina Last Funderburk
 Contact email address* RFunderburk@rivco.org
 Street address* 3450 14th Street, 4th Floor
 City* Riverside State/Province* California Postal code* 92501-3861
 Country* USA
 Phone* 951-955-2265 Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

2. Software Assurance manager.

This contact will receive online permissions to manage the Software Assurance benefits under the Enrollment or Registration.

Name of entity* County of Riverside
 Contact name*: First Regina Last Funderburk
 Contact email address* RFunderburk@rivco.org
 Street address* 3450 14th Street, 4th Floor
 City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-2265 Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

3. Subscriptions manager.

This contact will assign MSDN, Expression, and TechNet Plus subscription licenses to the individual subscribers under this Enrollment or Registration. Assignment of the subscription licenses is necessary for access to any of the online benefits, such as subscription downloads. This contact will also manage any complimentary or additional media purchases related to these subscriptions.

Name of entity* County of Riverside

Contact name*: First Regina Last Funderburk

Contact email address* RFunderburk@rivco.org

Street address* 3450 14th Street, 4th Floor

City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-2265 Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

4. Online services manager.

This contact will be provided online permissions to manage the online services ordered under the Enrollment or Registration.

Name of entity* County of Riverside

Contact name*: First Luis Last Flores

Contact email address* LFFlores@rivco.org

Street address* 3450 14th Street, 4th Floor

City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-8114 Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

5. Customer Support Manager (CSM).

This person is designated as the Customer Support Manager (CSM) for support-related activities.

Name of entity* County of Riverside

Contact name*: First Luis Last Flores

Contact email address* LFFlores@rivco.org

Street address* 3450 14th Street, 4th Floor

City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-8114 Fax

6. Primary contact information.

An individual from inside the organization must serve as the primary contact. This contact receives online administrator permissions and may grant online access to others. This contact also receives all notices unless Microsoft is provided written notice of a change.

Name of entity* County of Riverside

Contact name*: First Jim Last Smith
Contact email address* jimsmith@rivco.org
Street address* 3450 14th Street, 4th Floor
City* Riverside State/Province* CA Postal code* 92501-3861
Country* US
Phone* 951-231-5909 Fax

7. Notices contact and online administrator information.

This individual receives online administrator permissions and may grant online access to others. This contact also receives all notices.

☒ Same as primary contact

Name of entity*

Contact name*: First Last

Contact email address*

Street address*

City* State/Province* Postal code*

Country*

Phone* Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

Microsoft Document Headersheet

** This is for informational purposes only **

MSE#:

(MSLI
Tracking
Number)

5-0000004275258

Doc Type:

Amendments

Do not modify the formatting or spacing of this Form above this text

Subsidiary:

Country:

United States

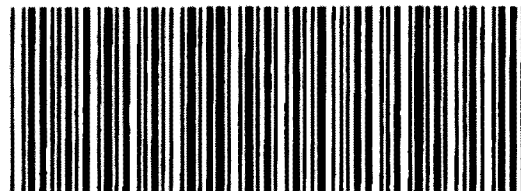
Account Manager Name / Alias:

LAR/LAD/ESA:

Insight Direct USA, Inc.

Program/Version

EA 6 2016



(Scanning Code)

ACCOUNT: County of Riverside

Outsourcer Name:

Business Agreement Number:

Master Agreement Number: **8084445**

Agreement Number:

Purchase Order Number:

Comments:

8/23/2019 9:42:40 PM

Amendment to Contract Documents

Agreement Number:

8084445

004-kayleed-S-04

This amendment ("Amendment") is entered into between the parties identified on the attached program signature form. It amends the Enrollment or Agreement identified above. All terms used but not defined in this Amendment will have the same meanings provided in that Enrollment or Agreement.

Enterprise Agreement Custom Terms CTM

1. Section 6a, "Term", is hereby amended and restated as follows:
 - a. Term. The term of this Agreement will remain in effect unless terminated by either party as described below. Each Enrollment will have the term provided in that Enrollment.
2. The pricing that Microsoft will offer Enrolled Affiliate's Reseller for Enrollments effective between November 1, 2019 through October 31, 2021, and that will apply for the entire initial term of such Enrollments, is as follows:

Product	Price Level	Examples include but are not limited to the following*:
Enterprise Online Services** (including Full USLs, From SA USLs, Add-ons and Step Ups)	Level D minus 2%	M365 E3 and E5, Enterprise Mobility + Security E3 and E5, Office 365 Enterprise E1 or E3, Windows 10 Enterprise E3 or E5
Enterprise Products	Level D	Office 365 Pro Plus, Windows 10 Enterprise, Core CAL Suite, Enterprise CAL Suite
Additional Products	Level D	M365 F1, M365 E5 Compliance, M365 E5 Security, Office 365 Enterprise F1, Project Online, Visio Online Plan 1 or Plan 2, Dynamics 365, Azure, SQL Server, Windows Server, etc.
Server and Tools Product (applies to Server and Cloud Enrollments only)	Level D	SharePoint Server, SQL Server, BizTalk Server, Visual Studio, Core Infrastructure Suites, etc.

*The examples include online services that are available in either the commercial or government cloud offerings.

**Qualifying Enterprise Online Services are identified in the Product Terms with the cell value of "EO" in the tables for "Program Availability". The scope of Enterprise Online Services is subject to change as Enterprise Online Services are added, updated/revised or removed from the Enterprise program offering.

Exclusions apply to the additional 2% discount on Enterprise Online Services as follows:

- The price list month that applies to an order is not a factor in determining whether the additional 2% discount on Enterprise Online Services may be applied to an order. The only applicable factor is the effective date of the Enrollment.
- The discount does not apply to any extensions of the initial Term or renewal Enrollments.
- The discount does not apply to any promotional SKUs. Enrolled Affiliate is entitled to the lower of the promotional price or discounted price.

The price level that applies to Enrollments effective on or after November 1, 2021 is Level D for all Products.

The Reseller and the Enrolled Affiliate will determine the Enrolled Affiliate's actual price and payment terms.

Except for changes made by this Amendment, the Enrollment or Agreement identified above remains unchanged and in full force and effect. If there is any conflict between any provision in this Amendment and any provision in the Enrollment or Agreement identified above, this Amendment shall control.

This Amendment must be attached to a signature form to be valid.

Microsoft Internal Use Only:

Riverside County EA Amend 8.7.docx	CTM	CTM-CPT-OPT-FWK	BD
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Licensing Solution Provider Agreement Number PSA-0001525

This Licensing Solution Provider Agreement is made and entered into this 22nd day of October 2019, by and between GovConnection, Inc., a Maryland corporation ("CONTRACTOR"), and the COUNTY OF RIVERSIDE, a political subdivision of the State of California, ("COUNTY"). WHEREAS, COUNTY and Microsoft Corporation ("Microsoft") have entered into that certain Microsoft Enterprise Agreement (Master Agreement No. 8084445; the "Master Agreement"), effective August 23, 2019, under which COUNTY has the ability to enter into one or more enrollments to order certain Microsoft product licenses;

WHEREAS, CONTRACTOR desires to provide support to COUNTY and its Enrolled Affiliates (as defined in the Master Agreement) for said licenses under this Agreement and hereby represents that it has the skills, experience, and knowledge necessary to perform under this Agreement; and

WHEREAS, COUNTY desires to accept CONTRACTOR's services under this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

1. This Agreement covers all enrollments for all products licensed under the Master Agreement. All terms and conditions of the Master Agreement, attached as Exhibit E of this Agreement and incorporated by reference, shall apply to the purchase of related products and services.
2. This Agreement is available for use by all government entities within the State of California (an "Enrolled Affiliate") for the duration of the Term (defined below in section 4). Enrollment documents will contain the terms and conditions specific to each entity.
3. CONTRACTOR agrees to extend the same pricing, terms, and conditions as stated in this agreement to each and every government entity in the State of California. Terms and conditions are governed by this Agreement, the Master Agreement, and the applicable enrollment documents for each entity. Entities shall make purchases in their own name, make direct payment to CONTRACTOR, and be liable directly to CONTRACTOR for all obligations.
 - 3.1 COUNTY shall in no way be responsible to CONTRACTOR for Enrolled Affiliates' purchases and obligations. COUNTY shall in no way be responsible to other entities for their purchases or any acts or omissions of CONTRACTOR, including but not limited to product selection or implementation, services or other related matters.
 - 3.2 CONTRACTOR shall notify Enrolled Affiliate in writing of the terms and conditions stated in Section 11.
4. This Agreement shall be effective from November 1, 2019 through October 31, 2021, unless terminated earlier (the "Term").
5. Hold Harmless/Indemnification:
 - 5.1 CONTRACTOR shall indemnify and hold harmless the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as Indemnitees) from any liability, action, claim or damage whatsoever, based or asserted upon any services, or acts or omissions, of CONTRACTOR, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating

Licensing Solution Provider Agreement Number PSA-0001525

to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature. CONTRACTOR shall defend the Indemnitees at its sole expense including all costs and fees (including, but not limited, to attorney fees, cost of investigation, defense and settlements or awards) in any claim or action based upon such acts, omissions or services.

5.2 With respect to any action or claim subject to indemnification herein by CONTRACTOR, CONTRACTOR shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of COUNTY; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes CONTRACTOR indemnification to Indemnitees as set forth herein.

5.3 CONTRACTOR'S obligation hereunder shall be satisfied when CONTRACTOR has provided to COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action or claim involved.

6. Contractor Responsibilities: CONTRACTOR will offer the following services to each Enrolled Affiliate at no additional charge. It is the responsibility of the Enrolled Affiliate to determine which products and/or services, if any, meet their needs and communicate that to the CONTRACTOR.

6.1 Provide reports showing year to date annual spend according to Enrolled Affiliate's specifications. Frequency will be determined by each Enrolled Affiliate (monthly, quarterly, etc.).

6.2 Provide a short synopsis of why an amendment is needed and the ramification of each amendment to an enrollment at the time of such amendment.

6.3 Provide an updated price list on an annual basis or when requested by Enrolled Affiliate.

7. CONTRACTOR's Microsoft Enterprise Agreement license subscription price attached hereto as Exhibit A and service rates attached hereto as Exhibit B.

8. CONTRACTOR's Microsoft Enterprise Agreement Participation Form attached hereto as Exhibit C and incorporated herein by reference.

9. Usage Reporting: CONTRACTOR will provide to COUNTY the Licensed Support Provider (LSP) Reporting of Active Enrollments to Master Microsoft Enterprise Agreement No. 8084445, Select Plus Agreement No. 7756479, Microsoft Premier, Unified, and MCS Support services, showing a list of enrollments by February 15th of each year. Forms shall be submitted electronically to MasterMicrosoftAdmin@rivco.org. A copy of the form is attached hereto as Exhibit D and incorporated herein by reference.

10. Administrative fees: CONTRACTOR will be charged .5% of the annual enrollment amount to leverage the Riverside County Master Microsoft Agreement No. 8084445, Select Plus Agreement No. 7756479, Microsoft Premier, Unified, and MCS Support services. This will be an annual fee, per enrollment inclusive of Affiliates Shadow Enrollments. Example: A three-year aggregated agreement with a contract amount of \$300K, divisible by three years will result in an LSP Participation Fee of \$500 annually (100K*.5%). RCIT will invoice the Awarded LSP annually based on the enrollments verified from the

Licensing Solution Provider Agreement Number PSA-0001525

“Reporting of Active Enrollments” list submitted by December 15th of each year. Payment is due to Riverside County Information Technology thirty (30) days from invoice date.

10.1 Riverside County Information Technology (RCIT) will invoice the CONTRACTOR annually based on the enrollments verified. Payment is due to RCIT within thirty (30) days of invoice date. The COUNTY will not accept credit as a form of payment.

10.2 Failure to meet the administrative fee requirements herein and submit fees on a timely basis may constitute grounds for immediate termination of this Agreement.

11. Contract Management: The contacts for this Agreement for COUNTY shall be both RCIT and Purchasing as listed below.

COUNTY Primary Contact:
Jim Smith
3450 14th Street
Riverside, CA 92501

COUNTY Secondary Contact:
Rick Hai
2980 Washington Street
Riverside, CA 92504

CONTRACTOR contact:
Bruce Siders
732 Milford Road
Merrimack, NH 03054

11.1 Should Contract Management contact information change, the CONTRACTOR shall provide written notice with the updated information to the COUNTY no later than 10 business days after the change.

12. Termination:

12.1 COUNTY may terminate this Agreement without cause upon thirty (30) days written notice served upon the CONTRACTOR stating the extent and effective date of termination.

12.2 COUNTY may, upon five (5) days written notice terminate this Agreement for CONTRACTOR's default, if CONTRACTOR refuses or fails to comply with the terms of this Agreement or fails to make progress that may endanger performance and does not immediately cure such failure. In the event of such termination, the COUNTY may proceed with the work in any manner deemed proper by COUNTY.

12.3 CONTRACTOR's rights under this Agreement shall terminate (except for fees accrued prior to the date of termination) upon dishonesty or a willful or material breach of this Agreement by CONTRACTOR; or in the event of CONTRACTOR's unwillingness or inability for any reason whatsoever to perform the terms of this Agreement.

13. Conduct of Contractor:

13.1 The CONTRACTOR covenants that it presently has no interest, including, but not limited to, other projects or contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with CONTRACTOR's performance under this Agreement. The CONTRACTOR further covenants that no person or subcontractor having any such interest shall

Licensing Solution Provider Agreement Number PSA-0001525

be employed or retained by CONTRACTOR under this Agreement. The CONTRACTOR agrees to inform the COUNTY of all the CONTRACTOR's interests, if any, which are or may be perceived as incompatible with the COUNTY's interests.

- 13.2 The CONTRACTOR shall not, under circumstances which could be interpreted as an attempt to influence the recipient in the conduct of his/her duties, accept any gratuity or special favor from individuals or firms with whom the CONTRACTOR is doing business or proposing to do business, in accomplishing the work under this Agreement.
- 13.3 The CONTRACTOR or its employees shall not offer gifts, gratuity, favors, and entertainment directly or indirectly to COUNTY employees.
- 13.4 CONTRACTOR shall establish adequate procedures for self-monitoring and quality control and assurance to ensure proper performance under this Agreement; and shall permit a COUNTY representative or other regulatory official to monitor, assess, or evaluate CONTRACTOR's performance under this Agreement at any time, upon reasonable notice to the CONTRACTOR.

14. Independent Contractor/Employment Eligibility/Non-Discrimination:

- 14.1 The CONTRACTOR is, for purposes relating to this Agreement, an independent contractor and shall not be deemed an employee of the COUNTY. It is expressly understood and agreed that the CONTRACTOR (including its employees, agents, and subcontractors) shall in no event be entitled to any benefits to which COUNTY employees are entitled, including but not limited to overtime, any retirement benefits, worker's compensation benefits, and injury leave or other leave benefits. There shall be no employer-employee relationship between the parties; and CONTRACTOR shall hold COUNTY harmless from any and all claims that may be made against COUNTY based upon any contention by a third party that an employer-employee relationship exists by reason of this Agreement. It is further understood and agreed by the parties that CONTRACTOR in the performance of this Agreement is subject to the control or direction of COUNTY merely as to the results to be accomplished and not as to the means and methods for accomplishing the results.
- 14.2 CONTRACTOR warrants that it shall make its best effort to fully comply with all federal and state statutes and regulations regarding the employment of aliens and others and to ensure that employees performing work under this Agreement meet the citizenship or alien status requirement set forth in federal statutes and regulations. CONTRACTOR shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by federal or state statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. CONTRACTOR shall retain all such documentation for all covered employees, for the period prescribed by the law.
- 14.3 CONTRACTOR shall not discriminate in the provision of services, allocation of benefits, accommodation in facilities, or employment of personnel on the basis of ethnic group identification, race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex in the performance of this Agreement; and, to the extent they shall be found to be applicable hereto, shall comply with the provisions of the California Fair

Licensing Solution Provider Agreement Number PSA-0001525

Employment and Housing Act (Gov. Code 12900 et. seq), the Federal Civil Rights Act of 1964 (P.L. 88-352), the Americans with Disabilities Act of 1990 (42 U.S.C. S1210 et seq.) and all other applicable laws or regulations.

15. Entire Agreement: This Agreement, including any attachments or exhibits, constitutes the entire agreement of the parties with respect to its subject matter and supersedes all prior and contemporaneous representations, proposals, discussions and communications, whether oral or in writing. This Agreement may be changed or modified only by a written amendment signed by authorized representatives of both parties.

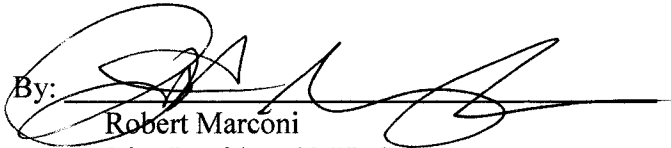
IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute this Agreement.

COUNTY OF RIVERSIDE, a political
subdivision of the State of California

By: 
Kevin Jeffries, Chairman
Board of Supervisors
OCT 22 2019

Dated: _____

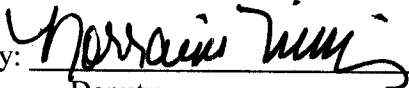
GovConnection, Inc., a Maryland corporation

By: 
Robert Marconi
Vice President SLED Sales

Dated: 10/9/2019

ATTEST:

Kecia Harper
Clerk of the Board

By: 
Deputy

APPROVED AS TO FORM:

Gregory P. Priamos
County Counsel

By: 
Susanna Oh, Deputy County Counsel

Licensing Solution Provider Agreement Number PSA-0001525

**Exhibit A
Microsoft Enterprise license subscription and services**

Line	Description	Price Level	Markup %
1	Enterprise Online Services** (including Full USLs, From SA USLs, Add-ons and Step Ups) M365 E3 and E5, Enterprise Mobility + Security E3 and E5, Office 365 Enterprise E1 or E3, Windows 10 Enterprise E3 or E5.	Level D Minus 2%	.20
2	Enterprise Products Office 365 Pro Plus, Windows 10 Enterprise, Core CAL Suite, Enterprise CAL Suite.	Level D	.20
3	Additional Products M365 F1, M365 E5 Compliance, M365 E5 Security, Office 365 Enterprise F1, Project Online, Visio Online Plan 1 or Plan 2, Dynamics 365, Azure, SQL Server, Windows Server, etc.	Level D	.20
4	Server and Tools Product (applies to Server and Cloud Enrollments only) SharePoint Server, SQL Server, BizTalk Server, Visual Studio, Core Infrastructure Suites, etc.	Level D	.20
5	All products for Select Plus Agreement No.7756479.		.70
6	Microsoft Premier Support		.70
7	Microsoft Unified Support Services		.70
8	Microsoft Consulting Services		.70

Licensing Solution Provider Agreement Number PSA-0001525

**Exhibit B
License Support Provider (LSP) service rates**

Line	Description	Certified Competency (Yes/No)	Hourly Rate
	Data and Artificial Intelligent		
1	Build Intelligent Apps	Yes	\$255
2	Build Intelligent Agents	Yes	\$255
3	Machine Learning	Yes	\$255
4	Internet of Things	Yes	\$255
5	Globally distributed data	Yes	\$255
6	OSS Databases	Yes	\$255
7	Cloud Scale Analytics	Yes	\$255
8	Data Platform Modernization to Azure	Yes	\$255
9	Windows Server on Azure	Yes	\$255
10	Security & Management	Yes	\$255
11	Datacenter Migration	Yes	\$255
12	Modern Business Intelligence	Yes	\$255
	Biz Apps		
1	Customer Service	No	\$0
2	Field Service	No	\$0
3	Marketing	No	\$0
4	Talent	No	\$0
5	Finance and Operations	No	\$0
6	Business Central	No	\$0
7	Power Apps	Yes	\$255
8	Power BI	Yes	\$255
	Apps and Infrastructure		
1	Azure Stack	No	\$0
2	High Performance Compute	Yes	\$255
3	Cloud Native Apps using Serverless	Yes	\$255
4	Modernize Apps	Yes	\$255
5	SAP on Azure	Yes	\$255
6	Linux on Azure	Yes	\$255
7	Dev Ops	Yes	\$255
8	Business Continuity & Disaster Recovery	Yes	\$255
9	Windows Server on Azure	Yes	\$255
10	Security & Management	Yes	\$255
11	Datacenter Migration	Yes	\$255

Licensing Solution Provider Agreement Number PSA-0001525

**Exhibit B (cont.)
License Support Provider (LSP) service rates**

Line	Description	Certified Competency (Yes/No)	Hourly Rate
	Modern Workplace		
1	User Adoption & Change Management	Yes	\$255
2	Security	Yes	\$255
3	GDPR & Compliance	No	\$0
4	Teamwork	Yes	\$255
5	Calling & Meetings	Yes	\$255
6	Modern Desktop	Yes	\$255
7	Office 365 Migration Assistance	Yes	\$255
7a	Mail	Yes	\$255
7b	Teams	Yes	\$255
7c	SharePoint	Yes	\$255
7d	OneDrive	Yes	\$255

Licensing Solution Provider Agreement Number PSA-0001525

Exhibit C
Microsoft LSP Participation Form

DAVE ROGERS
Assistant Chief Executive Officer
Chief Information Officer

JIM SMITH
Chief Technology Officer



JENNIFER HILBER, ACIO
Enterprise Applications Bureau
GUSTAVO VAZQUEZ, ACIO
Converged Communications Bureau
Public Safety Enterprise Communications
GIL MEJIA, ACIO
Technology Services Bureau

Microsoft LSP Participation Form
(RFQ #RIVC0-2020-RFQ-0000048 Attachment 3)

Complete this form and return to: Attention: Rick Hai E-mail: RHai@rivco.org	Payment should be made to: Riverside County Information Technology 3450 14th Street, Fourth Floor Riverside, CA 92501
--	--

County of Riverside TIN#: 95-6000930

Company Name: GovConnection, Inc. d/b/a Connection Public Sector Solutions

Name: Robert Marconi

Title: Vice President SLED Sales

Address: 732 Milford Road

City: Merrimack Zip Code: 03054 Telephone#: 800-800-0019 ext. 33331

Fax#: 603-683-0223 Email: bob.marconi@connection.com

The County of Riverside is the host of the Microsoft Master Agreement No. 8084445. All questions regarding the products and licensing should be directed to Microsoft.

By signing below, I am agreeing to pay the participation fees for each enrollment that is established by leveraging the County of Riverside Master Agreement in accordance to the schedule referenced on RFQ #RIVC0-2020-RFQ-0000048 and any subsequent contracts and / or amendments.

By signing below, I also agree that all enrollments will be submitted to Microsoft direct, to report enrollment activity and comply to the payment schedule per RFQ #RIVC0-2020-RFQ-0000048 to Riverside County Information Technology.

Please reference the remittance information above for where to send the payment. Failure to comply may result in the award being rescinded.

Signature

Robert Marconi

9/18/2019
Date

Vice President SLED Sales

Exhibit D
Microsoft LSP Reporting of Active Enrollments Form

LSP Name	Company name		Start Date:	End Date:	Annual Spend	Enrollment Contact:	Enrollment Contact Email:	Enrollment Contact Tel:
RIVCO	RIVCO-20800-00x-xx/xx							
Microsoft Agreement Numbers	01E69633, 01E73134, AND NEW							
Master Enrollment	Enrollment Number:	Enrollment Entity:	Start Date:	End Date:	Annual Spend	Enrollment Contact:	Enrollment Contact Email:	Enrollment Contact Tel:
8084445	87654321	Riverside County Information Technology	1/01/12	12/31/16	\$645,000.00	John Doe	John.Doe@riverside.org	951-555-1212
							-	
							-	
							-	

Exhibit E
Master Agreement

Attached include the followings:

- 1) Signature Form
- 2) Microsoft Enterprise Agreement
- 3) Microsoft Enterprise Agreement Amendment

Microsoft Document Headersheet

** This is for informational purposes only **

MSE#:

(MSLI
Tracking
Number)

5-0000004275258

Doc Type:

Amendments

Do not modify the formatting or spacing of this Form above this text

Subsidiary:

Country:

United States

Account Manager Name / Alias:

LAR/LAD/ESA:

Insight Direct USA, Inc.



Program/Version

EA 6 2016

(Scanning Code)

ACCOUNT: County of Riverside

3

Outsourcer Name:

Business Agreement Number:

Master Agreement Number: **8084445**

Agreement Number:

Purchase Order Number:

Comments:

Amendment to Contract Documents

Agreement Number

8084445

004-kayleed-S-04

This amendment ("Amendment") is entered into between the parties identified on the attached program signature form. It amends the Enrollment or Agreement identified above. All terms used but not defined in this Amendment will have the same meanings provided in that Enrollment or Agreement.

Enterprise Agreement Custom Terms CTM

1. Section 6a, "Term", is hereby amended and restated as follows:
 - a. **Term.** The term of this Agreement will remain in effect unless terminated by either party as described below. Each Enrollment will have the term provided in that Enrollment.
2. The pricing that Microsoft will offer Enrolled Affiliate's Reseller for Enrollments effective between November 1, 2019 through October 31, 2021, and that will apply for the entire initial term of such Enrollments, is as follows:

Product	Price Level	Examples include but are not limited to the following*:
Enterprise Online Services** (including Full USLs, From SA USLs, Add-ons and Step Ups)	Level D minus 2%	M365 E3 and E5, Enterprise Mobility + Security E3 and E5, Office 365 Enterprise E1 or E3, Windows 10 Enterprise E3 or E5
Enterprise Products	Level D	Office 365 Pro Plus, Windows 10 Enterprise, Core CAL Suite, Enterprise CAL Suite
Additional Products	Level D	M365 F1, M365 E5 Compliance, M365 E5 Security, Office 365 Enterprise F1, Project Online, Visio Online Plan 1 or Plan 2, Dynamics 365, Azure, SQL Server, Windows Server, etc.
Server and Tools Product (applies to Server and Cloud Enrollments only)	Level D	SharePoint Server, SQL Server, BizTalk Server, Visual Studio, Core Infrastructure Suites, etc.

*The examples include online services that are available in either the commercial or government cloud offerings.

**Qualifying Enterprise Online Services are identified in the Product Terms with the cell value of "EO" in the tables for "Program Availability". The scope of Enterprise Online Services is subject to change as Enterprise Online Services are added, updated/revised or removed from the Enterprise program offering.

Exclusions apply to the additional 2% discount on Enterprise Online Services as follows:

- The price list month that applies to an order is not a factor in determining whether the additional 2% discount on Enterprise Online Services may be applied to an order. The only applicable factor is the effective date of the Enrollment.
- The discount does not apply to any extensions of the initial Term or renewal Enrollments.
- The discount does not apply to any promotional SKUs. Enrolled Affiliate is entitled to the lower of the promotional price or discounted price.

The price level that applies to Enrollments effective on or after November 1, 2021 is Level D for all Products.

The Reseller and the Enrolled Affiliate will determine the Enrolled Affiliate's actual price and payment terms.

Except for changes made by this Amendment, the Enrollment or Agreement identified above remains unchanged and in full force and effect. If there is any conflict between any provision in this Amendment and any provision in the Enrollment or Agreement identified above, this Amendment shall control.

This Amendment must be attached to a signature form to be valid.

Microsoft Internal Use Only:

Riverside County EA Amend 8.7.docx	CTM	CTM-CPT-OPT-FWK	BD
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Microsoft Document Headersheet

** This is for informational purposes only **

MSE#:

(MSL
Tracking
Number)

5-0000004275258

Doc Type:

[REDACTED] Agreement

Do not modify the formatting or spacing of this Form above this text

Subsidiary:

Country:

United States

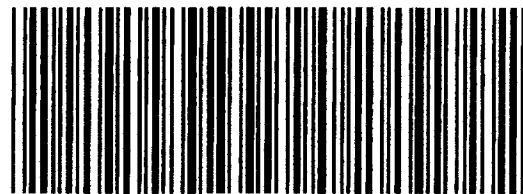
Account Manager Name / Alias:

LAR/LAD/ESA:

Insight Direct USA, Inc.

Program/Version

EA 6 2016



(Scanning Code)

ACCOUNT: County of Riverside

Outsourcer Name:

Business Agreement Number:

Master Agreement Number: **8084445**

Agreement Number:

Purchase Order Number:

15

Comments:

8/23/2019 9:42:31 PM

Enterprise Agreement**State and Local**

Not for Use with Microsoft Business Agreement or Microsoft Business and Services Agreement

This Microsoft Enterprise Agreement ("Agreement") is entered into between the entities identified on the signature form.

Effective date. The effective date of this Agreement is the earliest effective date of any Enrollment entered into under this Agreement or the date Microsoft accepts this Agreement, whichever is earlier.

This Agreement consists of (1) these Agreement terms and conditions, including any amendments and the signature form and all attachments identified therein, (2) the Product Terms applicable to Products licensed under this Agreement, (3) the Online Services Terms, (4) any Affiliate Enrollment entered into under this Agreement, and (5) any order submitted under this Agreement.

Please note: Documents referenced in this Agreement but not attached to the signature form may be found at <http://www.microsoft.com/licensing/contracts> and are incorporated in this Agreement by reference, including the Product Terms and Use Rights. These documents may contain additional terms and conditions for Products licensed under this Agreement and may be changed from time to time. Customer should review such documents carefully, both at the time of signing and periodically thereafter, and fully understand all terms and conditions applicable to Products licensed.

Terms and Conditions**1. Definitions.**

"Affiliate" means

- a. with regard to Customer,
 - (i) any government agency, department, office, instrumentality, division, unit or other entity of the state or local government that is supervised by or is part of Customer, or which supervises Customer or of which Customer is a part, or which is under common supervision with Customer;
 - (ii) any county, borough, commonwealth, city, municipality, town, township, special purpose district, or other similar type of governmental instrumentality established by the laws of Customer's state and located within Customer's state jurisdiction and geographic boundaries; and
 - (iii) any other entity in Customer's state expressly authorized by the laws of Customer's state to purchase under state contracts; provided that a state and its Affiliates shall not, for purposes of this definition, be considered to be Affiliates of the federal government and its Affiliates; and
- b. with regard to Microsoft, any legal entity that Microsoft owns, that owns Microsoft, or that is under common ownership with Microsoft.

"Customer" means the legal entity that has entered into this Agreement with Microsoft.

"Customer Data" means all data, including all text, sound, software, image, or video files that are provided to Microsoft by, or on behalf of, an Enrolled Affiliate and its Affiliates through use of Online Services.

"day" means a calendar day, except for references that specify "business day".

"Enrolled Affiliate" means an entity, either Customer or any one of Customer's Affiliates that has entered into an Enrollment under this Agreement.

"Enrollment" means the document that an Enrolled Affiliate submits under this Agreement to place orders for Products.

"Enterprise" means an Enrolled Affiliate and the Affiliates for which it is responsible and chooses on its Enrollment to include in its enterprise.

"Fixes" means Product fixes, modifications or enhancements, or their derivatives, that Microsoft either releases generally (such as Product service packs) or provides to Customer to address a specific issue.

"License" means the right to download, install, access and use a Product. For certain Products, a License may be available on a fixed term or subscription basis ("Subscription License"). Licenses for Online Services will be considered Subscription Licenses.

"Microsoft" means the Microsoft Affiliate that has entered into this Agreement or an Enrollment and its Affiliates, as appropriate.

"Online Services" means the Microsoft-hosted services identified as Online Services in the Product Terms.

"Online Services Terms" means the additional terms that apply to Customer's use of Online Services published on the Volume Licensing Site and updated from time to time.

"Product" means all products identified in the Product Terms, such as all Software, Online Services and other web-based services, including pre-release or beta versions.

"Product Terms" means the document that provides information about Microsoft Products and Professional Services available through volume licensing. The Product Terms document is published on the Volume Licensing Site and is updated from time to time.

"SLA" means Service Level Agreement, which specifies the minimum service level for Online Services and is published on the Volume Licensing Site.

"Software" means licensed copies of Microsoft software identified on the Product Terms. Software does not include Online Services, but Software may be part of an Online Service.

"Software Assurance" is an offering by Microsoft that provides new version rights and other benefits for Products as further described in the Product Terms.

"Trade Secret" means information that is not generally known or readily ascertainable to the public, has economic value as a result, and has been subject to reasonable steps under the circumstances to maintain its secrecy.

"use" or "run" means to copy, install, use, access, display, run or otherwise interact.

"Use Rights" means the use rights or terms of service for each Product published on the Volume Licensing Site and updated from time to time. The Use Rights supersede the terms of any end user license agreement that accompanies a Product. The Use Rights for Software are published by Microsoft in the Product Terms. The Use Rights for Online Services are published in the Online Services Terms.

"Volume Licensing Site" means <http://www.microsoft.com/licensing/contracts> or a successor site.

2. How the Enterprise program works.

- a. **General.** The Enterprise program consists of the terms and conditions on which an Enrolled Affiliate may acquire Product Licenses. Under the Enterprise program, Customer and its Affiliates may order Licenses for Products by entering into Enrollments.
- b. **Enrollments.** The Enterprise program gives Customer and/or its Affiliates the ability to enter into one or more Enrollments to order Products. Subscription Enrollments may be available for some of these Enrollments. Notwithstanding any other provision of this Agreement, only Enrolled Affiliates identified in an Enrollment will be responsible for complying with the terms of that Enrollment, including the terms of this Agreement incorporated by reference in that Enrollment.

- c. **Licenses.** The types of Licenses available are (1) Licenses obtained under Software Assurance (L&SA), and (2) Subscription Licenses. These License types, as well as additional License Types, are further described in the Product List.

3. **Licenses for Products.**

- a. **License Grant.** Microsoft grants the Enterprise a non-exclusive, worldwide and limited right to download, install and use software Products, and to access and use the Online Services, each in the quantity ordered under an Enrollment. The rights granted are subject to the terms of this Agreement, the Use Rights and the Product Terms. Microsoft reserves all rights not expressly granted in this Agreement.
- b. **Duration of Licenses.** Subscription Licenses and most Software Assurance rights are temporary and expire when the applicable Enrollment is terminated or expires, unless the Enrolled Affiliate exercises a buy-out option, which is available for some Subscription Licenses. Except as otherwise noted in the applicable Enrollment or Use Rights, all other Licenses become perpetual only when all payments for that License have been made and the initial Enrollment term has expired.
- c. **Applicable Use Rights.**
- (i) **Products (other than Online Services).** The Use Rights in effect on the effective date of the applicable Enrollment term will apply to Enterprise's use of the version of each Product that is current at the time. For future versions and new Products, the Use Rights in effect when those versions and Products are first released will apply. Changes Microsoft makes to the Use Rights for a particular version will not apply unless the Enrolled Affiliate chooses to have those changes apply. The Use Rights applicable to perpetual Licenses that were acquired under a previous agreement or Enrollment are determined by the Agreement or Enrollment under which they were acquired. Renewal of Software Assurance does not change which Use Rights apply to those Licenses.
 - (ii) **Online Services.** For Online Services, the Use Rights in effect on the subscription start date will apply for the subscription term as defined in the Product Terms.
- d. **Downgrade rights.** Enrolled Affiliate may use an earlier version of a Product other than Online Services than the version that is current on the effective date of the Enrollment. For Licenses acquired in the current Enrollment term, the Use Rights for the current version apply to the use of the earlier version. If the earlier Product version includes features that are not in the new version, then the Use Rights applicable to the earlier version apply with respect to those features.
- e. **New Version Rights under Software Assurance.** Enrolled Affiliate must order and maintain continuous Software Assurance coverage for each License ordered. With Software Assurance coverage, Enterprise automatically has the right to use a new version of a licensed Product as soon as it is released, even if Enrolled Affiliate chooses not to use the new version immediately.
- (i) Except as otherwise permitted under an Enrollment, use of the new version will be subject to the new version's Use Rights.
 - (ii) If the License for the earlier version of the Product is perpetual at the time the new version is released, the License for the new version will also be perpetual. Perpetual Licenses obtained through Software Assurance replace any perpetual Licenses for the earlier version.
- f. **License confirmation.** This Agreement, the applicable Enrollment, Enrolled Affiliate's order confirmation, and any documentation evidencing transfers of perpetual Licenses, together with proof of payment, will be Enrolled Affiliate's evidence of all Licenses obtained under an Enrollment.

- g. **Reorganizations, consolidations and privatizations.** If the number of Licenses covered by an Enrollment changes by more than ten percent as a result of (1) a reorganization, consolidation or privatization of an entity or an operating division, (2) a privatization of an Affiliate or an operating division of Enrolled Affiliate or any of its Affiliates, or (3) a consolidation including a merger with a third party that has an existing agreement or Enrollment, Microsoft will work with Enrolled Affiliate in good faith to determine how to accommodate its changed circumstances in the context of this Agreement.

4. Making copies of Products and re-imaging rights.

- a. **General.** Enrolled Affiliate may make as many copies of Products, as it needs to distribute them within the Enterprise. Copies must be true and complete (including copyright and trademark notices) from master copies obtained from a Microsoft approved fulfillment source. Enrolled Affiliate may use a third party to make these copies, but Enrolled Affiliate agrees it will be responsible for any third party's actions. Enrolled Affiliate agrees to make reasonable efforts to notify its employees, agents, and any other individuals who use the Products that the Products are licensed from Microsoft and subject to the terms of this Agreement.
- b. **Copies for training/evaluation and back-up.** For all Products other than Online Services, Enrolled Affiliate may: (1) use up to 20 complimentary copies of any licensed Product in a dedicated training facility on its premises for purposes of training on that particular Product, (2) use up to 10 complimentary copies of any Products for a 60-day evaluation period, and (3) use one complimentary copy of any licensed Product for back-up or archival purposes for each of its distinct geographic locations. Trials for Online Services may be available if specified in the Use Rights.
- c. **Right to re-image.** In certain cases, re-imaging is permitted using the Product media. If the Microsoft Product is licensed (1) from an original equipment manufacturer (OEM), (2) as a full packaged Product through a retail source, or (3) under another Microsoft program, then media provided under this Agreement may generally be used to create images for use in place of copies provided through that separate source. This right is conditional upon the following:
 - (i) Separate Licenses must be acquired from the separate source for each Product that is re-imaged.
 - (ii) The Product, language, version, and components of the copies made must be identical to the Product, language, version, and all components of the copies they replace and the number of copies or instances of the re-imaged Product permitted remains the same.
 - (iii) Except for copies of an operating system and copies of Products licensed under another Microsoft program, the Product type (e.g., Upgrade or full License) re-imaged must be identical to the Product type licensed from the separate source.
 - (iv) Enrolled Affiliate must adhere to any Product-specific processes or requirements for re-imaging identified in the Product Terms.

Re-imaged Products remain subject to the terms and use rights of the License acquired from the separate source. This subsection does not create or extend any Microsoft warranty or support obligation.

5. Transferring and reassigning Licenses.

- a. **License transfers.** License transfers are not permitted, except that Customer or an Enrolled Affiliate may transfer only fully-paid perpetual Licenses to:
 - (i) an Affiliate, or
 - (ii) a third party solely in connection with the transfer of hardware or employees to whom the Licenses have been assigned as part of (A) a privatization of an Affiliate or agency or of an

operating division of Enrolled Affiliate or an Affiliate. (B) a reorganization, or (C) a consolidation.

Upon such transfer, Customer or Enrolled Affiliate must uninstall and discontinue using the licensed Product and render any copies unusable.

- b. **Notification of License Transfer.** Enrolled Affiliate must notify Microsoft of a License transfer by completing a license transfer form, which can be obtained from <http://www.microsoft.com/licensing/contracts> and sending the completed form to Microsoft before the License transfer. No License transfer will be valid unless Enrolled Affiliate provides to the transferee, and the transferee accepts in writing, documents sufficient to enable the transferee to ascertain the scope, purpose and limitations of the rights granted by Microsoft under the licenses being transferred (including the applicable Use Rights, use and transfer restrictions, warranties and limitations of liability). Any License transfer not made in compliance with this section will be void.
- c. **Internal Assignment of Licenses and Software Assurance.** Licenses and Software Assurance must be assigned to a single user or device within the Enterprise. Licenses and Software Assurance may be reassigned within the Enterprise as described in the Use Rights.

6. **Term and termination.**

- a. **Term.** The term of this Agreement will be 36 full calendar months from the effective date unless terminated by either party as described below. Each Enrollment will have the term provided in that Enrollment.
- b. **Termination without cause.** Either party may terminate this Agreement, without cause, upon 60 days' written notice. In the event of termination, new Enrollments will not be accepted, but any existing Enrollment will continue for the term of such Enrollment and will continue to be governed by this Agreement.
- c. **Mid-term termination for non-appropriation of Funds.** Enrolled Affiliate may terminate this Agreement or an Enrollment without liability, penalty or further obligation to make payments if funds to make payments under the Agreement or Enrollment are not appropriated or allocated by the Enrolled Affiliate for such purpose.
- d. **Termination for cause.** Without limiting any other remedies it may have, either party may terminate an Enrollment if the other party materially breaches its obligations under this Agreement, including any obligation to submit orders or pay invoices. Except where the breach is by its nature not curable within 30 days, the terminating party must give the other party 30 days' notice of its intent to terminate and an opportunity to cure the breach.

If Microsoft gives such notice to an Enrolled Affiliate, Microsoft also will give Customer a copy of that notice and Customer agrees to help resolve the breach. If the breach affects other Enrollments and cannot be resolved between Microsoft and Enrolled Affiliate, together with Customer's help, within a reasonable period of time, Microsoft may terminate this Agreement and all Enrollments under it. If an Enrolled Affiliate ceases to be Customer's Affiliate, it must promptly notify Microsoft, and Microsoft may terminate the former Affiliate's Enrollment. If an Enrolled Affiliate terminates its Enrollment as a result of a breach by Microsoft, or if Microsoft terminates an Enrollment because Enrolled Affiliate ceases to be Customer's Affiliate, then Enrolled Affiliate will have the early termination rights described in the Enrollment.

- e. **Early termination.** If (1) an Enrolled Affiliate terminates its Enrollment as a result of a breach by Microsoft, or (2) if Microsoft terminates an Enrollment because the Enrolled Affiliate has ceased to be an Affiliate of Customer, or (3) Enrolled Affiliate terminates an Enrollment for non-appropriation of funds, or (4) Microsoft terminates an Enrollment for non-payment due to non-appropriation of funds, then the Enrolled Affiliate will have the following options:
 - (i) It may immediately pay the total remaining amount due, including all installments, in which case, the Enrolled Affiliate will have perpetual rights for all Licenses it has ordered; or

(ii) It may pay only amounts due as of the termination date, in which case the Enrolled Affiliate will have perpetual Licenses for:

- 1) all copies of Products (including the latest version of Products ordered under SA coverage in the current term) for which payment has been made in full, and
- 2) the number of copies of Products it has ordered (including the latest version of Products ordered under Software Assurance coverage in current term) that is proportional to the total of installment payments paid versus total amounts due (paid and payable) if the early termination had not occurred.

(iii) In the case of early termination under subscription Enrollments, Enrolled Affiliate will have the following options:

- 1) For eligible Products, Enrolled Affiliate may obtain perpetual Licenses as described in the section of the Enrollment titled "Buy-out option," provided that Microsoft receives the buy-out order for those Licenses within 60 days after Enrolled Affiliate provides notice of termination.
- 2) In the event of a breach by Microsoft, if Customer chooses not to exercise a buy-out option, Microsoft will issue Enrolled Affiliate a credit for any amount paid in advance for Subscription Licenses that the Enterprise will not be able to use to do the termination of the Enrollment.

Nothing in this section shall affect perpetual License rights acquired either in a separate agreement or in a prior term of the terminated Enrollment.

f. Effect of termination or expiration. When an Enrollment expires or is terminated,

- (i) Enrolled Affiliate must order Licenses for all copies of Products it has run for which it has not previously submitted an order. Any and all unpaid payments for any order of any kind remain due and payable. Except as provided in the subsection titled "Early termination," all unpaid payments for Licenses immediately become due and payable.
- (ii) Enrolled Affiliate's right to Software Assurance benefits under this Agreement ends if it does not renew Software Assurance.

g. Modification or termination of an Online Service for regulatory reasons. Microsoft may modify or terminate an Online Service where there is any current or future government requirement or obligation that: (1) subjects Microsoft to any regulation or requirement not generally applicable to businesses operating in the jurisdiction; (2) presents a hardship for Microsoft to continue operating the Online Service without modification; and/or (3) causes Microsoft to believe these terms or the Online Service may conflict with any such requirement or obligation.

h. Program updates. Microsoft may make changes to this program that will make it necessary for Customer and its Enrolled Affiliates to enter into new agreements and Enrollments at the time of an Enrollment renewal.

7. Use, ownership, rights, and restrictions.

- a. Products.** Unless otherwise specified in a supplemental agreement, use of any Product is governed by the Use Rights specific to each Product and version and by the terms of the applicable supplemental agreement.
- b. Fixes.** Each Fix is licensed under the same terms as the Product to which it applies. If a Fix is not provided for a specific Product, any use rights Microsoft provides with the Fix will apply.
- c. Non-Microsoft software and technology.** Enrolled Affiliate is solely responsible for any non-Microsoft software or technology that it installs or uses with the Products or Fixes.

- d. **Restrictions.** Enrolled Affiliate must not (and is not licensed to) (1) reverse engineer, decompile, or disassemble any Product or Fix; (2) install or use non-Microsoft software or technology in any way that would subject Microsoft's intellectual property or technology to any other license terms; or (3) work around any technical limitations in a Product or Fix or restrictions in Product documentation. Customer must not (and is not licensed to) (i) separate and run parts of a Product or Fix on more than one device, upgrade or downgrade parts of a Product or Fix at different times, or transfer parts of a Product or Fix separately; or (ii) distribute, sublicense, rent, lease, lend any Products or Fixes, in whole or in part, or use them to offer hosting services to a third party.
- e. **Reservation of rights.** Products and Fixes are protected by copyright and other intellectual property rights laws and international treaties. Microsoft reserves all rights not expressly granted in this agreement. No rights will be granted or implied by waiver or estoppel. Rights to access or use Software on a device do not give Customer any right to implement Microsoft patents or other Microsoft intellectual property in the device itself or in any other software or devices.

8. Confidentiality.

"Confidential Information" is non-public information that is designated "confidential" or that a reasonable person should understand is confidential, including Customer Data. Confidential Information does not include information that (a) becomes publicly available without a breach of this agreement, (b) the receiving party received lawfully from another source without a confidentiality obligation, (c) is independently developed, or (d) is a comment or suggestion volunteered about the other party's business, products or services.

Each party will take reasonable steps to protect the other's Confidential Information and will use the other party's Confidential Information only for purposes of the parties' business relationship. Neither party will disclose that Confidential Information to third parties, except to its employees, Affiliates, contractors, advisors and consultants ("Representatives") and then only on a need-to-know basis under nondisclosure obligations at least as protective as this agreement. Each party remains responsible for the use of the Confidential Information by its Representatives and, in the event of discovery of any unauthorized use or disclosure, must promptly notify the other party.

A party may disclose the other's Confidential Information if required by law, but only after it notifies the other party (if legally permissible) to enable the other party to seek a protective order.

Neither party is required to restrict work assignments of its Representatives who have had access to Confidential Information. Each party agrees that the use of information retained in Representatives' unaided memories in the development or deployment of the parties' respective products or services does not create liability under this Agreement or trade secret law, and each party agrees to limit what it discloses to the other accordingly.

These obligations apply (i) for Customer Data until it is deleted from the Online Services, and (ii) for all other Confidential Information, for a period of five years after a party receives the Confidential Information.

9. Privacy and compliance with laws.

- a. Enrolled Affiliate consents to the processing of personal information by Microsoft and its agents to facilitate the subject matter of this Agreement. Enrolled Affiliate will obtain all required consents from third parties under applicable privacy and data protection law before providing personal information to Microsoft.
- b. Personal information collected under this agreement (i) may be transferred, stored and processed in the United States or any other country in which Microsoft or its service providers maintain facilities and (ii) will be subject to the privacy terms specified in the Use Rights. Microsoft will abide by the requirements of European Economic Area and Swiss data protection

law regarding the collection, use, transfer, retention, and other processing of personal data from the European Economic Area and Switzerland.

- c. **U.S. export.** Products and Fixes are subject to U.S. export jurisdiction. Enrolled Affiliate must comply with all applicable international and national laws, including the U.S. Export Administration Regulations and International Traffic in Arms Regulations, and end-user, end use and destination restrictions issued by U.S. and other governments related to Microsoft products, services and technologies.

10. Warranties.

a. Limited warranties and remedies.

- (i) **Software.** Microsoft warrants that each version of the Software will perform substantially as described in the applicable Product documentation for one year from the date the Enterprise is first licensed for that version. If it does not and the Enterprise notifies Microsoft within the warranty term, then Microsoft will, at its option (1) return the price Enrolled Affiliate paid for the Software license, or (2) repair or replace the Software.
- (ii) **Online Services.** Microsoft warrants that each Online Service will perform in accordance with the applicable SLA during the Enterprise's use. The Enterprise's remedies for breach of this warranty are in the SLA.

The remedies above are the Enterprise's sole remedies for breach of the warranties in this section. Customer waives any breach of warranty claims not made during the warranty period.

- b. **Exclusions.** The warranties in this agreement do not apply to problems caused by accident, abuse, or use in a manner inconsistent with this Agreement, including failure to meet minimum system requirements. These warranties do not apply to free, trial, pre-release, or beta products, or to components of Products that Enrolled Affiliate is permitted to redistribute.
- c. **Disclaimer.** Except for the limited warranties above, Microsoft provides no other warranties or conditions and disclaims any other express, implied, or statutory warranties, including warranties of quality, title, non-infringement, merchantability, and fitness for a particular purpose.

11. Defense of third party claims.

The parties will defend each other against the third-party claims described in this section and will pay the amount of any resulting adverse final judgment or approved settlement, but only if the defending party is promptly notified in writing of the claim and has the right to control the defense and any settlement of it. The party being defended must provide the defending party with all requested assistance, information, and authority. The defending party will reimburse the other party for reasonable out-of-pocket expenses it incurs in providing assistance. This section describes the parties' sole remedies and entire liability for such claims.

- a. **By Microsoft.** Microsoft will defend Enrolled Affiliate against any third-party claim to the extent it alleges that a Product or Fix made available by Microsoft for a fee and used within the scope of the license granted (unmodified from the form provided by Microsoft and not combined with anything else) misappropriates a trade secret or directly infringes a patent, copyright, trademark or other proprietary right of a third party. If Microsoft is unable to resolve a claim of infringement under commercially reasonable terms, it may, at its option, either (1) modify or replace the Product or Fix with a functional equivalent; or (2) terminate Enrolled Affiliate's license and refund any prepaid license fees (less depreciation on a five-year, straight-line basis) for perpetual licenses and any amount paid for Online Services for any usage period after the termination date. Microsoft will not be liable for any claims or damages due to Enrolled Affiliate's continued use of a Product or Fix after being notified to stop due to a third-party claim.
- b. **By Enrolled Affiliate.** To the extent permitted by applicable law, Enrolled Affiliate will defend Microsoft against any third-party claim to the extent it alleges that: (1) any Customer Data or

non-Microsoft software hosted in an Online Service by Microsoft on Enrolled Affiliate's behalf misappropriates a trade secret or directly infringes a patent, copyright, trademark, or other proprietary right of a third party; or (2) Enrolled Affiliate's use of any Product or Fix, alone or in combination with anything else, violates the law or damages a third party.

12. Limitation of liability.

For each Product, each party's maximum, aggregate liability to the other under this Agreement is limited to direct damages finally awarded in an amount not to exceed the amounts Enrolled Affiliate was required to pay for the applicable Products during the term of this Agreement, subject to the following:

- a. **Online Services.** For Online Services, Microsoft's maximum liability to Enrolled Affiliate for any incident giving rise to a claim will not exceed the amount Enrolled Affiliate paid for the Online Service during the 12 months before the incident.
- b. **Free Products and Distributable Code.** For Products provided free of charge and code that Enrolled Affiliate is authorized to redistribute to third parties without separate payment to Microsoft, Microsoft's liability is limited to direct damages finally awarded up to US\$5,000.
- c. **Exclusions.** In no event will either party be liable for indirect, incidental, special, punitive, or consequential damages, or for loss of use, loss of business information, loss of revenue, or interruption of business, however caused or on any theory of liability.
- d. **Exceptions.** No limitation or exclusions will apply to liability arising out of either party's (1) confidentiality obligations (except for all liability related to Customer Data, which will remain subject to the limitations and exclusions above); (2) defense obligations; or (3) violation of the other party's intellectual property rights.

13. Verifying compliance.

- a. **Right to verify compliance.** Enrolled Affiliate must keep records relating to all use and distribution of Products by Enrolled Affiliate and its Affiliates. Microsoft has the right, at its expense, to the extent permitted by applicable law, to verify compliance with the Product's license terms. Enrolled Affiliate must promptly provide the independent auditor with any information the auditor reasonably requests in furtherance of the verification, including access to systems running the Products and evidence of Licenses for Products Enrolled Affiliate hosts, sublicenses, or distributes to third parties. Enrolled Affiliate agrees to complete Microsoft's self-audit process, which Microsoft may require as an alternative to a third party audit.
- b. **Remedies for non-compliance.** If verification or self-audit reveals any unlicensed use or distribution, then within 30 days, (1) Enrolled Affiliate must order sufficient Licenses to cover that use or distribution, and (2) if unlicensed use or distribution is 5% or more, Enrolled Affiliate must reimburse Microsoft for the cost Microsoft has incurred in verification and acquire the necessary additional licenses at 125% of the price based on the then-current price list and Enrolled Affiliate price level. The unlicensed use percentage is based on the total number of licenses purchased compared to actual install base. If there is no unlicensed use, Microsoft will not subject Enrolled Affiliate to another verification for at least one year. By exercising the rights and procedures described above, Microsoft does not waive its rights to enforce this Agreement or to protect its intellectual property by any other means permitted by law.
- c. **Verification process.** Microsoft will notify Enrolled Affiliate at least 30 days in advance of its intent to verify Enrolled Affiliate's compliance with the license terms for the Products Enrolled Affiliate and its Affiliates use or distribute. Microsoft will engage an independent auditor, which will be subject to a confidentiality obligation. Any information collected in the self-audit will be used solely for purposes of determining compliance. This verification will take place during normal business hours and in a manner that does not interfere unreasonably with Enrolled Affiliate's operations.

14. **Miscellaneous.**

- a. **Use of contractors.** Microsoft may use contractors to perform services, but will be responsible for their performance subject to the terms of this Agreement.
- b. **Microsoft as independent contractor.** The parties are independent contractors. Enrolled Affiliate and Microsoft each may develop products independently without using the other's Confidential Information.
- c. **Notices.** Notices to Microsoft must be sent to the address on the signature form. Notices must be in writing and will be treated as delivered on the date shown on the return receipt or on the courier or fax confirmation of delivery. Microsoft may provide information to Enrolled Affiliate about upcoming ordering deadlines, services, and subscription information in electronic form, including by email to contacts provided by Enrolled Affiliate. Emails will be treated as delivered on the transmission date.
- d. **Agreement not exclusive.** Customer is free to enter into agreements to license, use or promote non-Microsoft products.
- e. **Amendments.** Any amendment to this Agreement must be executed by both parties, except that Microsoft may change the Product Terms and the Use Rights from time to time in accordance with the terms of this Agreement. Any conflicting terms and conditions contained in an Enrolled Affiliate's purchase order will not apply. Microsoft may require Customer to sign a new agreement or an amendment before an Enrolled Affiliate enters into an Enrollment under this agreement.
- f. **Assignment.** Either party may assign this Agreement to an Affiliate, but must notify the other party in writing of the assignment. Any other proposed assignment must be approved by the non-assigning party in writing. Assignment will not relieve the assigning party of its obligations under the assigned agreement. Any attempted assignment without required approval will be void.
- g. **Applicable law; dispute resolution.** The terms of this Agreement will be governed by the laws of Customer's state, without giving effect to its conflict of laws. Disputes relating to this Agreement will be subject to applicable dispute resolution laws of Customer's state.
- h. **Severability.** If any provision in this agreement is held to be unenforceable, the balance of the agreement will remain in full force and effect.
- i. **Waiver.** Failure to enforce any provision of this agreement will not constitute a waiver. Any waiver must be in writing and signed by the waiving party.
- j. **No third-party beneficiaries.** This Agreement does not create any third-party beneficiary rights.
- k. **Survival.** All provisions survive termination or expiration of this Agreement except those requiring performance only during the term of the Agreement.
- l. **Management and Reporting.** Customer and/or Enrolled Affiliate may manage account details (e.g., contacts, orders, Licenses, software downloads) on Microsoft's Volume Licensing Service Center ("VLSC") web site (or successor site) at: <https://www.microsoft.com/licensing/servicecenter>. Upon the effective date of this Agreement and any Enrollments, the contact(s) identified for this purpose will be provided access to this site and may authorize additional users and contacts.
- m. **Order of precedence.** In the case of a conflict between any documents in this Agreement that is not expressly resolved in those documents, their terms will control in the following order from highest to lowest priority: (1) this Enterprise Agreement, (2) any Enrollment, (3) the Product Terms, (4) the Online Services Terms, (5) orders submitted under this Agreement, and (6) any other documents in this Agreement. Terms in an amendment control over the amended document and any prior amendments concerning the same subject matter.

- n. **Free Products.** It is Microsoft's intent that the terms of this Agreement and the Use Rights be in compliance with all applicable federal law and regulations. Any free Product provided to Enrolled Affiliate is for the sole use and benefit of the Enrolled Affiliate, and is not provided for use by or personal benefit of any specific government employee.
- o. **Voluntary Product Accessibility Templates.** Microsoft supports the government's obligation to provide accessible technologies to its citizens with disabilities as required by Section 508 of the Rehabilitation Act of 1973, and its state law counterparts. The Voluntary Product Accessibility Templates ("VPATs") for the Microsoft technologies used in providing the Online Services can be found at Microsoft's VPAT page. Further information regarding Microsoft's commitment to accessibility can be found at <http://www.microsoft.com/enable>.
- p. **Natural disaster.** In the event of a "natural disaster," Microsoft may provide additional assistance or rights by posting them on <http://www.microsoft.com> at such time.
- q. **Copyright violation.** Except as set forth in the section above entitled "Transferring and reassigning Licenses", the Enrolled Affiliate agrees to pay for, and comply with the terms of this Agreement and the Use Rights, for the Products it uses. Except to the extent Enrolled Affiliate is licensed under this Agreement, it will be responsible for its breach of this contract and violation of Microsoft's copyright in the Products, including payment of License fees specified in this Agreement for unlicensed use.

Supplemental Contact Information Form

This form can be used in combination with MBSA, Agreement, and Enrollment/Registration. However, a separate form must be submitted for each enrollment/registration, when more than one is submitted on a signature form. For the purposes of this form, "entity" can mean the signing entity, Customer, Enrolled Affiliate, Government Partner, Institution, or other party entering into a volume licensing program agreement. Primary and Notices contacts in this form will not apply to enrollments or registrations.

This form applies to:

☐ MBSA

☒ Agreement

☐ Enrollment/Affiliate Registration Form

Insert primary entity name if more than one Enrollment/Registration Form is submitted

Contact information.

Each party will notify the other in writing if any of the information in the following contact information page(s) changes. The asterisks (*) indicate required fields; if the entity chooses to designate other contact types, the same required fields must be completed for each section. By providing contact information, entity consents to its use for purposes of administering the Enrollment by Microsoft and other parties that help Microsoft administer this Enrollment. The personal information provided in connection with this agreement will be used and protected according to the privacy statement available at <https://licensing.microsoft.com>.

1. Additional notices contact.

This contact receives all notices that are sent from Microsoft. No online access is granted to this individual.

Name of entity* County of Riverside
 Contact name*: First Regina Last Funderburk
 Contact email address* RFunderburk@rivco.org
 Street address* 3450 14th Street, 4th Floor
 City* Riverside State/Province* California Postal code* 92501-3861
 Country* USA
 Phone* 951-955-2265 Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

2. Software Assurance manager.

This contact will receive online permissions to manage the Software Assurance benefits under the Enrollment or Registration.

Name of entity* County of Riverside
 Contact name*: First Regina Last Funderburk
 Contact email address* RFunderburk@rivco.org
 Street address* 3450 14th Street, 4th Floor
 City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-2265 **Fax**

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

3. Subscriptions manager.

This contact will assign MSDN, Expression, and TechNet Plus subscription licenses to the individual subscribers under this Enrollment or Registration. Assignment of the subscription licenses is necessary for access to any of the online benefits, such as subscription downloads. This contact will also manage any complimentary or additional media purchases related to these subscriptions.

Name of entity* County of Riverside

Contact name*: First Regina Last Funderburk

Contact email address* RFunderburk@rivco.org

Street address* 3450 14th Street, 4th Floor

City* Riverside **State/Province*** California **Postal code*** 92501-3861

Country* USA

Phone* 951-955-2265 **Fax**

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

4. Online services manager.

This contact will be provided online permissions to manage the online services ordered under the Enrollment or Registration.

Name of entity* County of Riverside

Contact name*: First Luis Last Flores

Contact email address* LFFlores@rivco.org

Street address* 3450 14th Street, 4th Floor

City* Riverside **State/Province*** California **Postal code*** 92501-3861

Country* USA

Phone* 951-955-8114 **Fax**

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

5. Customer Support Manager (CSM).

This person is designated as the Customer Support Manager (CSM) for support-related activities.

Name of entity* County of Riverside

Contact name*: First Luis Last Flores

Contact email address* LFFlores@rivco.org

Street address* 3450 14th Street, 4th Floor

City* Riverside **State/Province*** California **Postal code*** 92501-3861

Country* USA

Phone* 951-955-8114 **Fax**

6. Primary contact information.

An individual from inside the organization must serve as the primary contact. This contact receives online administrator permissions and may grant online access to others. This contact also receives all notices unless Microsoft is provided written notice of a change.

Name of entity* County of Riverside

Contact name*: First Jim Last Smith
Contact email address* jimsmith@rivco.org
Street address* 3450 14th Street, 4th Floor
City* Riverside State/Province* CA Postal code* 92501-3861
Country* US
Phone* 951-231-5909 Fax

7. Notices contact and online administrator information.

This individual receives online administrator permissions and may grant online access to others. This contact also receives all notices.

☒ Same as primary contact

Name of entity*

Contact name*: First Last

Contact email address*

Street address*

City* State/Province* Postal code*

Country*

Phone* Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

Microsoft Document Headersheet

** This is for informational purposes only **

MSE#:

(MSLI
Tracking
Number)

5-0000004275258

Doc Type:

Signature Form

Do not modify the formatting or spacing of this Form above this text

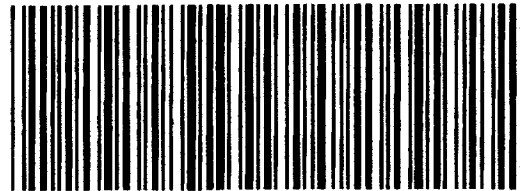
Subsidiary:

Account Manager Name / Alias:

Country: **United States**

LAR/LAD/ESA:

Insight Direct USA, Inc.



Program/Version

EA 6 2016

(Scanning Code)

ACCOUNT: County of Riverside

3

Outsourcer Name:

Business Agreement Number:

Master Agreement Number: **8084445**

Agreement Number:

Purchase Order Number:

Comments:



Volume Licensing

Program Signature Form

MBA/MESA number

Agreement number

808444S

004-kayleed-S-04

Note: Enter the applicable active numbers associated with the documents below. Microsoft requires the associated active number be indicated here, or listed below as new.

For the purposes of this form, "Customer" can mean the signing entity, Enrolled Affiliate, Government Partner, Institution, or other party entering into a volume licensing program agreement.

This signature form and all contract documents identified in the table below are entered into between the Customer and the Microsoft Affiliate signing, as of the effective date identified below.

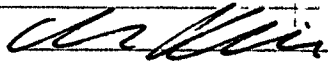
Contract Document	Number or Code
Enterprise Agreement	X20-10209
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
Amendment to Contract Documents	CTM-CPT-OPT-FWK (new)

By signing below, Customer and the Microsoft Affiliate agree that both parties (1) have received, read and understand the above contract documents, including any websites or documents incorporated by reference and any amendments and (2) agree to be bound by the terms of all such documents.

Customer
Name of Entity (must be legal entity name)* County of Riverside
Signature* 
Printed First and Last Name* Richard R. Hai
Printed Title* Sr. Procurement Contract Specialist
Signature Date* 08/22/2019
Tax ID

* indicates required field

FORM APPROVED COUNTY COUNSEL
BY:  8/22/19
DATE
SUSANNA N. OH

Microsoft Affiliate	
Microsoft Corporation	
Signature 	 Microsoft Microsoft Corporation AUG 23 2019 Chance Krail Duly Authorized on behalf of Microsoft Corporation
Printed First and Last Name	
Printed Title	
Signature Date (date Microsoft Affiliate countersigns)	
Agreement Effective Date (may be different than Microsoft's signature date)	8/23/2019

Optional 2nd Customer signature or Outsourcer signature (if applicable)

Customer
Name of Entity (must be legal entity name)*
Signature*
Printed First and Last Name*
Printed Title
Signature Date*

* indicates required field

Outsourcer
Name of Entity (must be legal entity name)*
Signature*
Printed First and Last Name*
Printed Title
Signature Date*

* indicates required field

If Customer requires physical media, additional contacts, or is reporting multiple previous Enrollments, include the appropriate form(s) with this signature form.

After this signature form is signed by the Customer, send it and the Contract Documents to Customer's channel partner or Microsoft account manager, who must submit them to the following address. When the signature form is fully executed by Microsoft, Customer will receive a confirmation copy.

Microsoft Corporation
Dept. 551, Volume Licensing
6100 Neil Road, Suite 210
Reno, Nevada 89511-1137
USA

Licensing Solution Provider Agreement Number PSA-0001526

This Licensing Solution Provider Agreement is made and entered into this 22nd day of October 2019, by and between Insight Public Sector Inc., an Illinois corporation ("CONTRACTOR"), and the COUNTY OF RIVERSIDE, a political subdivision of the State of California, ("COUNTY").

WHEREAS, COUNTY and Microsoft Corporation ("Microsoft") have entered into that certain Microsoft Enterprise Agreement (Master Agreement No. 8084445; the "Master Agreement"), effective August 23, 2019, under which COUNTY has the ability to enter into one or more enrollments to order certain Microsoft product licenses;

WHEREAS, CONTRACTOR desires to provide support to COUNTY and its Enrolled Affiliates (as defined in the Master Agreement) for said licenses under this Agreement and hereby represents that it has the skills, experience, and knowledge necessary to perform under this Agreement; and

WHEREAS, COUNTY desires to accept CONTRACTOR's services under this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

1. This Agreement covers all enrollments for all products licensed under the Master Agreement. All terms and conditions of the Master Agreement, attached as Exhibit E of this Agreement and incorporated by reference, shall apply to the purchase of related products and services.
2. This Agreement is available for use by all government entities within the State of California (an "Enrolled Affiliate") for the duration of the Term (defined below in section 4). Enrollment documents will contain the terms and conditions specific to each entity.
3. CONTRACTOR agrees to extend the same pricing, terms, and conditions as stated in this agreement to each and every government entity in the State of California. Terms and conditions are governed by this Agreement, the Master Agreement, and the applicable enrollment documents for each entity. Entities shall make purchases in their own name, make direct payment to CONTRACTOR, and be liable directly to CONTRACTOR for all obligations.
 - 3.1 COUNTY shall in no way be responsible to CONTRACTOR for Enrolled Affiliates' purchases and obligations. COUNTY shall in no way be responsible to other entities for their purchases or any acts or omissions of CONTRACTOR, including but not limited to product selection or implementation, services or other related matters.
 - 3.2 CONTRACTOR shall notify Enrolled Affiliate in writing of the terms and conditions stated in Section 11.
4. This Agreement shall be effective from November 1, 2019 through October 31, 2021, unless terminated earlier (the "Term").
5. Hold Harmless/Indemnification:
 - 5.1 CONTRACTOR shall indemnify and hold harmless the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as Indemnitees) from any liability, action, claim or damage whatsoever, based or asserted upon any services, or acts or omissions, of CONTRACTOR, its

Licensing Solution Provider Agreement Number PSA-0001526

officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature. CONTRACTOR shall defend the Indemnitees at its sole expense including all costs and fees (including, but not limited, to attorney fees, cost of investigation, defense and settlements or awards) in any claim or action based upon such acts, omissions or services.

- 5.2 With respect to any action or claim subject to indemnification herein by CONTRACTOR, CONTRACTOR shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of COUNTY; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes CONTRACTOR indemnification to Indemnitees as set forth herein.
- 5.3 CONTRACTOR'S obligation hereunder shall be satisfied when CONTRACTOR has provided to COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action or claim involved.
6. Contractor Responsibilities: CONTRACTOR will offer the following services to each Enrolled Affiliate at no additional charge. It is the responsibility of the Enrolled Affiliate to determine which products and/or services, if any, meet their needs and communicate that to the CONTRACTOR.
 - 6.1 Provide reports showing year to date annual spend according to Enrolled Affiliate's specifications. Frequency will be determined by each Enrolled Affiliate (monthly, quarterly, etc.).
 - 6.2 Provide a short synopsis of why an amendment is needed and the ramification of each amendment to an enrollment at the time of such amendment.
 - 6.3 Provide an updated price list on an annual basis or when requested by Enrolled Affiliate.
7. CONTRACTOR's Microsoft Enterprise Agreement license subscription price attached hereto as Exhibit A and service rates attached hereto as Exhibit B.
8. CONTRACTOR's Microsoft Enterprise Agreement Participation Form attached hereto as Exhibit C and incorporated herein by reference.
9. Usage Reporting: CONTRACTOR will provide to COUNTY the Licensed Support Provider (LSP) Reporting of Active Enrollments to Master Microsoft Enterprise Agreement No. 8084445, Select Plus Agreement No. 7756479, Microsoft Premier, Unified, and MCS Support services, showing a list of enrollments by February 15th of each year. Forms shall be submitted electronically to MasterMicrosoftAdmin@rivco.org. A copy of the form is attached hereto as Exhibit D and incorporated herein by reference.
10. Administrative fees: CONTRACTOR will be charged .5% of the annual enrollment amount to leverage the Riverside County Master Microsoft Agreement No. 8084445, Select Plus Agreement No. 7756479, Microsoft Premier, Unified, and MCS Support services. This will be an annual fee, per enrollment inclusive of Affiliates Shadow Enrollments. Example: A three-year aggregated agreement with a contract amount of \$300K, divisible by three years will result in an LSP Participation Fee of \$500 annually (100K*.5%). RCIT will invoice the Awarded LSP annually based on the enrollments verified from the

Licensing Solution Provider Agreement Number PSA-0001526

"Reporting of Active Enrollments" list submitted by December 15th of each year. Payment is due to Riverside County Information Technology thirty (30) days from invoice date.

- 10.1 Riverside County Information Technology (RCIT) will invoice the CONTRACTOR annually based on the enrollments verified. Payment is due to RCIT within thirty (30) days of invoice date. The COUNTY will not accept credit as a form of payment.
- 10.2 Failure to meet the administrative fee requirements herein and submit fees on a timely basis may constitute grounds for immediate termination of this Agreement.

- 11. Contract Management: The contacts for this Agreement for COUNTY shall be both RCIT and Purchasing as listed below.

COUNTY Primary Contact:
Jim Smith
3450 14th Street
Riverside, CA 92501

COUNTY Secondary Contact:
Rick Hai
2980 Washington Street
Riverside, CA 92504

CONTRACTOR contact:
Pam Potter, Manager SLED Compliance
6820 S. Harl Avenue
Tempe, AZ 85283

- 11.1 Should Contract Management contact information change, the CONTRACTOR shall provide written notice with the updated information to the COUNTY no later than 10 business days after the change.

- 12. Termination:

- 12.1 COUNTY may terminate this Agreement without cause upon thirty (30) days written notice served upon the CONTRACTOR stating the extent and effective date of termination.
- 12.2 COUNTY may, upon five (5) days written notice terminate this Agreement for CONTRACTOR's default, if CONTRACTOR refuses or fails to comply with the terms of this Agreement or fails to make progress that may endanger performance and does not immediately cure such failure. In the event of such termination, the COUNTY may proceed with the work in any manner deemed proper by COUNTY.
- 12.3 CONTRACTOR's rights under this Agreement shall terminate (except for fees accrued prior to the date of termination) upon dishonesty or a willful or material breach of this Agreement by CONTRACTOR; or in the event of CONTRACTOR's unwillingness or inability for any reason whatsoever to perform the terms of this Agreement.

- 13. Conduct of Contractor:

- 13.1 The CONTRACTOR covenants that it presently has no interest, including, but not limited to, other projects or contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with CONTRACTOR's performance under this Agreement. The CONTRACTOR further covenants that no person or subcontractor having any such interest shall be employed or retained by CONTRACTOR under this Agreement. The CONTRACTOR agrees

Licensing Solution Provider Agreement Number PSA-0001526

to inform the COUNTY of all the CONTRACTOR's interests, if any, which are or may be perceived as incompatible with the COUNTY's interests.

- 13.2 The CONTRACTOR shall not, under circumstances which could be interpreted as an attempt to influence the recipient in the conduct of his/her duties, accept any gratuity or special favor from individuals or firms with whom the CONTRACTOR is doing business or proposing to do business, in accomplishing the work under this Agreement.
- 13.3 The CONTRACTOR or its employees shall not offer gifts, gratuity, favors, and entertainment directly or indirectly to COUNTY employees.
- 13.4 CONTRACTOR shall establish adequate procedures for self-monitoring and quality control and assurance to ensure proper performance under this Agreement; and shall permit a COUNTY representative or other regulatory official to monitor, assess, or evaluate CONTRACTOR's performance under this Agreement at any time, upon reasonable notice to the CONTRACTOR.

14. Independent Contractor/Employment Eligibility/Non-Discrimination:

- 14.1 The CONTRACTOR is, for purposes relating to this Agreement, an independent contractor and shall not be deemed an employee of the COUNTY. It is expressly understood and agreed that the CONTRACTOR (including its employees, agents, and subcontractors) shall in no event be entitled to any benefits to which COUNTY employees are entitled, including but not limited to overtime, any retirement benefits, worker's compensation benefits, and injury leave or other leave benefits. There shall be no employer-employee relationship between the parties; and CONTRACTOR shall hold COUNTY harmless from any and all claims that may be made against COUNTY based upon any contention by a third party that an employer-employee relationship exists by reason of this Agreement. It is further understood and agreed by the parties that CONTRACTOR in the performance of this Agreement is subject to the control or direction of COUNTY merely as to the results to be accomplished and not as to the means and methods for accomplishing the results.
- 14.2 CONTRACTOR warrants that it shall make its best effort to fully comply with all federal and state statutes and regulations regarding the employment of aliens and others and to ensure that employees performing work under this Agreement meet the citizenship or alien status requirement set forth in federal statutes and regulations. CONTRACTOR shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by federal or state statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. CONTRACTOR shall retain all such documentation for all covered employees, for the period prescribed by the law.
- 14.3 CONTRACTOR shall not discriminate in the provision of services, allocation of benefits, accommodation in facilities, or employment of personnel on the basis of ethnic group identification, race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex in the performance of this Agreement; and, to the extent they shall be found to be applicable hereto, shall comply with the provisions of the California Fair Employment and Housing Act (Gov. Code 12900 et. seq), the Federal Civil Rights Act of 1964

Licensing Solution Provider Agreement Number PSA-0001526

(P.L. 88-352), the Americans with Disabilities Act of 1990 (42 U.S.C. S1210 et seq.) and all other applicable laws or regulations.

15. Entire Agreement: This Agreement, including any attachments or exhibits, constitutes the entire agreement of the parties with respect to its subject matter and supersedes all prior and contemporaneous representations, proposals, discussions and communications, whether oral or in writing. This Agreement may be changed or modified only by a written amendment signed by authorized representatives of both parties.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute this Agreement.

COUNTY OF RIVERSIDE, a political subdivision of the State of California

By: 
Kevin Jeffries, Chairman
Board of Supervisors

Dated: OCT 22 2019

Insight Public Sector, Inc., an Illinois Corporation

By: 
John Carnahan
Sr. Vice President of Business Development

Dated: 10.9.19

ATTEST:

Kecia Harper
Clerk of the Board

By: 
Deputy

APPROVED AS TO FORM:

Gregory P. Priamos
County Counsel

By: 
Susanna Oh, Deputy County Counsel

Licensing Solution Provider Agreement Number PSA-0001526

**Exhibit A
Microsoft Enterprise license subscription and services**

Line	Description	Price Level	Markup %
1	Enterprise Online Services** (including Full USLs, From SA USLs, Add-ons and Step Ups) M365 E3 and E5, Enterprise Mobility + Security E3 and E5, Office 365 Enterprise E1 or E3, Windows 10 Enterprise E3 or E5.	Level D Minus 2%	.75
2	Enterprise Products Office 365 Pro Plus, Windows 10 Enterprise, Core CAL Suite, Enterprise CAL Suite.	Level D	.75
3	Additional Products M365 F1, M365 E5 Compliance, M365 E5 Security, Office 365 Enterprise F1, Project Online, Visio Online Plan 1 or Plan 2, Dynamics 365, Azure, SQL Server, Windows Server, etc.	Level D	.75
4	Server and Tools Product (applies to Server and Cloud Enrollments only) SharePoint Server, SQL Server, BizTalk Server, Visual Studio, Core Infrastructure Suites, etc.	Level D	.75
5	All products for Select Plus Agreement No.7756479.		1.00
6	Microsoft Premier Support		1.00
7	Microsoft Unified Support Services		1.00
8	Microsoft Consulting Services		1.00

Licensing Solution Provider Agreement Number PSA-0001526

**Exhibit B
License Support Provider (LSP) service rates**

Line	Description	Certified Competency (Yes/No)	Hourly Rate
	Data and Artificial Intelligent		
1	Build Intelligent Apps	Yes	\$275
2	Build Intelligent Agents	Yes	\$275
3	Machine Learning	Yes	\$275
4	Internet of Things	Yes	\$275
5	Globally distributed data	Yes	\$275
6	OSS Databases	Yes	\$275
7	Cloud Scale Analytics	Yes	\$275
8	Data Platform Modernization to Azure	Yes	\$275
9	Windows Server on Azure	Yes	\$225
10	Security & Management	Yes	\$225
11	Datacenter Migration	Yes	\$225
12	Modern Business Intelligence	Yes	\$285
	Biz Apps		
1	Customer Service	Yes	\$265
2	Field Service	Yes	\$265
3	Marketing	Yes	\$265
4	Talent	Yes	\$265
5	Finance and Operations	Yes	\$265
6	Business Central	Yes	\$265
7	Power Apps	Yes	\$265
8	Power BI	Yes	\$265
	Apps and Infrastructure		
1	Azure Stack	Yes	\$235
2	High Performance Compute	Yes	\$235
3	Cloud Native Apps using Serverless	Yes	\$235
4	Modernize Apps	Yes	\$235
5	SAP on Azure	Yes	\$235
6	Linux on Azure	Yes	\$235
7	Dev Ops	Yes	\$235
8	Business Continuity & Disaster Recovery	Yes	\$235
9	Windows Server on Azure	Yes	\$235
10	Security & Management	Yes	\$235
11	Datacenter Migration	Yes	\$225

Licensing Solution Provider Agreement Number PSA-0001526

**Exhibit B (cont.)
License Support Provider (LSP) service rates**

Line	Description	Certified Competency (Yes/No)	Hourly Rate
	Modern Workplace		
1	User Adoption & Change Management	Yes	\$210
2	Security	Yes	\$222
3	GDPR & Compliance	Yes	\$222
4	Teamwork	Yes	\$215
5	Calling & Meetings	Yes	\$222
6	Modern Desktop	Yes	\$215
7	Office 365 Migration Assistance	Yes	\$215
7a	Mail	Yes	\$215
7b	Teams	Yes	\$215
7c	SharePoint	Yes	\$215
7d	OneDrive	Yes	\$215

Exhibit C
Microsoft LSP Participation Form

DAVE ROGERS
Assistant Chief Executive Officer
Chief Information Officer

JIM SMITH
Chief Technology Officer



JENNIFER MILLER, ACIO
Enterprise Applications Bureau
GUSTAVO VAZQUEZ, ACIO
Converged Communications Bureau
Public Safety Enterprise Communications
GE MENA, ACIO
Technology Services Bureau

Microsoft LSP Participation Form
(RFQ #RIVCO-2020-RFQ-0000048 Attachment 3)

Complete this form and return to:

Attention: Rick Hai
E-mail: RHai@rivco.org

Payment should be made to:
Riverside County Information Technology
3450 14th Street, Fourth Floor
Riverside, CA 92501

County of Riverside TIN #: 95-6000930

Company Name: Insight Public Sector, Inc.

Name: Steve Dodenhoff

Title: President, Insight North America

Address: 6820 S. Hart Avenue

City: Tempe

Zip Code: 85283

Telephone #: 480.333.3020

Fax #: 480.760.7002

Email: Steve.Dodenhoff@Insight.com

The County of Riverside is the host of the Microsoft Master Agreement No. 8084445. All questions regarding the products and licensing should be directed to Microsoft.

By signing below, I am agreeing to pay the participation fees for each enrollment that is established by leveraging the County of Riverside Master Agreement in accordance to the schedule referenced on RFQ #RIVCO-2020-RFQ-0000048 and any subsequent contracts and / or amendments.

By signing below, I also agree that all enrollments will be submitted to Microsoft direct, to report enrollment activity and comply to the payment schedule per RFQ #RIVCO-2020-RFQ-0000048 to Riverside County Information Technology.

Please reference the remittance information above for where to send the payment. Failure to comply may result in the award being rescinded.

Signature

Steve Dodenhoff

Printed Name

September 12, 2019

Date

President, Insight North America

Title

Exhibit D
Microsoft LSP Reporting of Active Enrollments Form

LSP Name	Company name									
RIVCO	RIVCO-20800-00x-xx/xx									
Microsoft Agreement Numbers	01E69633, 01E73134, AND NEW									
Master Enrollment	Enrollmen t Number:	Enrollment Entity:	Start Date:	End Date:	Annual Spend	Enrollment Contact:	Enrollment Contact Email:	Enrollment Contact Tel:		
8084445		Riverside County Information Technology	1/01/1 2	12/31/1 6	\$645,000.00	John Doe	John.Doe@riverside.org	951-555-1212		
							-			
							-			
							-			

Licensing Solution Provider Agreement Number PSA-0001526

**Exhibit E
Master Agreement**

Attached include the followings:

- 1) Signature Form
- 2) Microsoft Enterprise Agreement
- 3) Microsoft Enterprise Agreement Amendment

Microsoft Document Headersheet

** This is for informational purposes only **

MSE#:

(MSLI
Tracking
Number)

5-0000004275258

Doc Type:

Signature Form

Do not modify the formatting or spacing of this Form above this text

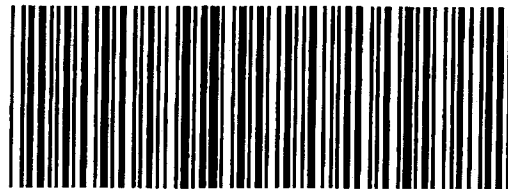
Subsidiary:

Country: **United States**

Account Manager Name / Alias:

LAR/LAD/ESA:

Insight Direct USA, Inc.



Program/Version

EA 6 2016

(Scanning Code)

ACCOUNT: County of Riverside

3

Outsourcer Name:

Business Agreement Number:

Master Agreement Number: **8084445**

Agreement Number:

Purchase Order Number:

Comments:



Volume Licensing

Program Signature Form

MBA/MESA number

Agreement number

808444S

004-kayleed-S-04

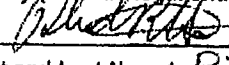
Note: Enter the applicable active numbers associated with the documents below. Microsoft requires the associated active number be indicated here, or listed below as new.

For the purposes of this form, "Customer" can mean the signing entity, Enrolled Affiliate, Government Partner, Institution, or other party entering into a volume licensing program agreement.

This signature form and all contract documents identified in the table below are entered into between the Customer and the Microsoft Affiliate signing, as of the effective date identified below.

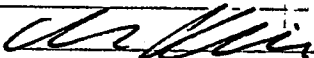
Contract Document	Number or Code
Enterprise Agreement	X20-10209
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
Amendment to Contract Documents	CTM-CPT-OPT-FWK (new)

By signing below, Customer and the Microsoft Affiliate agree that both parties (1) have received, read and understand the above contract documents, including any websites or documents incorporated by reference and any amendments and (2) agree to be bound by the terms of all such documents.

Customer
Name of Entity (must be legal entity name)* County of Riverside
Signature* 
Printed First and Last Name* Richard R. Hai
Printed Title Sr. Procurement Contract Specialist
Signature Date* 08/22/2019
Tax ID

* indicates required field

FORM APPROVED COUNTY COUNSEL
BY:  8/22/19
DATE
SUSANNA N. OH

Microsoft Affiliate	
Microsoft Corporation	
Signature  Printed First and Last Name Printed Title Signature Date (date Microsoft Affiliate countersigns)	 Microsoft Microsoft Corporation AUG 23 2019 Chance Krail Duly Authorized on behalf of Microsoft Corporation
Agreement Effective Date (may be different than Microsoft's signature date)	
8/23/2019	

Optional 2nd Customer signature or Outsourcer signature (if applicable)

Customer
Name of Entity (must be legal entity name)*
Signature*
Printed First and Last Name*
Printed Title
Signature Date*

* indicates required field

Outsourcer
Name of Entity (must be legal entity name)*
Signature*
Printed First and Last Name*
Printed Title
Signature Date*

* indicates required field

If Customer requires physical media, additional contacts, or is reporting multiple previous Enrollments, include the appropriate form(s) with this signature form.

After this signature form is signed by the Customer, send it and the Contract Documents to Customer's channel partner or Microsoft account manager, who must submit them to the following address. When the signature form is fully executed by Microsoft, Customer will receive a confirmation copy.

Microsoft Corporation
 Dept. 551, Volume Licensing
 6100 Neil Road, Suite 210
 Reno, Nevada 89511-1137
 USA

Microsoft Document Headersheet

** This is for informational purposes only **

MSE#:

(MSLI
Tracking
Number)

5-0000004275258

Doc Type:

[REDACTED] Agreement

Do not modify the formatting or spacing of this Form above this text

Subsidiary:

Country: **United States**

Account Manager Name / Alias:

LAR/LAD/ESA:

Insight Direct USA, Inc.



Program/Version

EA 6 2016

(Scanning Code)

ACCOUNT: County of Riverside

Outsourcer Name:

Business Agreement Number:

Master Agreement Number: **8084445**

Agreement Number:

Purchase Order Number:

15

Comments:

8/23/2019 9:42:31 PM



Enterprise Agreement

State and Local

Not for Use with Microsoft Business Agreement or Microsoft Business and Services Agreement

This Microsoft Enterprise Agreement ("Agreement") is entered into between the entities identified on the signature form.

Effective date. The effective date of this Agreement is the earliest effective date of any Enrollment entered into under this Agreement or the date Microsoft accepts this Agreement, whichever is earlier.

This Agreement consists of (1) these Agreement terms and conditions, including any amendments and the signature form and all attachments identified therein, (2) the Product Terms applicable to Products licensed under this Agreement, (3) the Online Services Terms, (4) any Affiliate Enrollment entered into under this Agreement, and (5) any order submitted under this Agreement.

Please note: Documents referenced in this Agreement but not attached to the signature form may be found at <http://www.microsoft.com/licensing/contracts> and are incorporated in this Agreement by reference, including the Product Terms and Use Rights. These documents may contain additional terms and conditions for Products licensed under this Agreement and may be changed from time to time. Customer should review such documents carefully, both at the time of signing and periodically thereafter, and fully understand all terms and conditions applicable to Products licensed.

Terms and Conditions

1. Definitions.

"Affiliate" means

- a. with regard to Customer,
 - (i) any government agency, department, office, instrumentality, division, unit or other entity of the state or local government that is supervised by or is part of Customer, or which supervises Customer or of which Customer is a part, or which is under common supervision with Customer;
 - (ii) any county, borough, commonwealth, city, municipality, town, township, special purpose district, or other similar type of governmental instrumentality established by the laws of Customer's state and located within Customer's state jurisdiction and geographic boundaries; and
 - (iii) any other entity in Customer's state expressly authorized by the laws of Customer's state to purchase under state contracts; provided that a state and its Affiliates shall not, for purposes of this definition, be considered to be Affiliates of the federal government and its Affiliates; and
- b. with regard to Microsoft, any legal entity that Microsoft owns, that owns Microsoft, or that is under common ownership with Microsoft.

"Customer" means the legal entity that has entered into this Agreement with Microsoft.

"Customer Data" means all data, including all text, sound, software, image, or video files that are provided to Microsoft by, or on behalf of, an Enrolled Affiliate and its Affiliates through use of Online Services.

"day" means a calendar day, except for references that specify "business day".

"Enrolled Affiliate" means an entity, either Customer or any one of Customer's Affiliates that has entered into an Enrollment under this Agreement.

"Enrollment" means the document that an Enrolled Affiliate submits under this Agreement to place orders for Products.

"Enterprise" means an Enrolled Affiliate and the Affiliates for which it is responsible and chooses on its Enrollment to include in its enterprise.

"Fixes" means Product fixes, modifications or enhancements, or their derivatives, that Microsoft either releases generally (such as Product service packs) or provides to Customer to address a specific issue.

"License" means the right to download, install, access and use a Product. For certain Products, a License may be available on a fixed term or subscription basis ("Subscription License"). Licenses for Online Services will be considered Subscription Licenses.

"Microsoft" means the Microsoft Affiliate that has entered into this Agreement or an Enrollment and its Affiliates, as appropriate.

"Online Services" means the Microsoft-hosted services identified as Online Services in the Product Terms.

"Online Services Terms" means the additional terms that apply to Customer's use of Online Services published on the Volume Licensing Site and updated from time to time.

"Product" means all products identified in the Product Terms, such as all Software, Online Services and other web-based services, including pre-release or beta versions.

"Product Terms" means the document that provides information about Microsoft Products and Professional Services available through volume licensing. The Product Terms document is published on the Volume Licensing Site and is updated from time to time.

"SLA" means Service Level Agreement, which specifies the minimum service level for Online Services and is published on the Volume Licensing Site.

"Software" means licensed copies of Microsoft software identified on the Product Terms. Software does not include Online Services, but Software may be part of an Online Service.

"Software Assurance" is an offering by Microsoft that provides new version rights and other benefits for Products as further described in the Product Terms.

"Trade Secret" means information that is not generally known or readily ascertainable to the public, has economic value as a result, and has been subject to reasonable steps under the circumstances to maintain its secrecy.

"use" or "run" means to copy, install, use, access, display, run or otherwise interact.

"Use Rights" means the use rights or terms of service for each Product published on the Volume Licensing Site and updated from time to time. The Use Rights supersede the terms of any end user license agreement that accompanies a Product. The Use Rights for Software are published by Microsoft in the Product Terms. The Use Rights for Online Services are published in the Online Services Terms.

"Volume Licensing Site" means <http://www.microsoft.com/licensing/contracts> or a successor site.

2. How the Enterprise program works.

- a. **General.** The Enterprise program consists of the terms and conditions on which an Enrolled Affiliate may acquire Product Licenses. Under the Enterprise program, Customer and its Affiliates may order Licenses for Products by entering into Enrollments.
- b. **Enrollments.** The Enterprise program gives Customer and/or its Affiliates the ability to enter into one or more Enrollments to order Products. Subscription Enrollments may be available for some of these Enrollments. Notwithstanding any other provision of this Agreement, only Enrolled Affiliates identified in an Enrollment will be responsible for complying with the terms of that Enrollment, including the terms of this Agreement incorporated by reference in that Enrollment.

- c. **Licenses.** The types of Licenses available are (1) Licenses obtained under Software Assurance (L&SA), and (2) Subscription Licenses. These License types, as well as additional License Types, are further described in the Product List.

3. **Licenses for Products.**

- a. **License Grant.** Microsoft grants the Enterprise a non-exclusive, worldwide and limited right to download, install and use software Products, and to access and use the Online Services, each in the quantity ordered under an Enrollment. The rights granted are subject to the terms of this Agreement, the Use Rights and the Product Terms. Microsoft reserves all rights not expressly granted in this Agreement.
- b. **Duration of Licenses.** Subscription Licenses and most Software Assurance rights are temporary and expire when the applicable Enrollment is terminated or expires, unless the Enrolled Affiliate exercises a buy-out option, which is available for some Subscription Licenses. Except as otherwise noted in the applicable Enrollment or Use Rights, all other Licenses become perpetual only when all payments for that License have been made and the initial Enrollment term has expired.
- c. **Applicable Use Rights.**
- (i) **Products (other than Online Services).** The Use Rights in effect on the effective date of the applicable Enrollment term will apply to Enterprise's use of the version of each Product that is current at the time. For future versions and new Products, the Use Rights in effect when those versions and Products are first released will apply. Changes Microsoft makes to the Use Rights for a particular version will not apply unless the Enrolled Affiliate chooses to have those changes apply. The Use Rights applicable to perpetual Licenses that were acquired under a previous agreement or Enrollment are determined by the Agreement or Enrollment under which they were acquired. Renewal of Software Assurance does not change which Use Rights apply to those Licenses.
- (ii) **Online Services.** For Online Services, the Use Rights in effect on the subscription start date will apply for the subscription term as defined in the Product Terms.
- d. **Downgrade rights.** Enrolled Affiliate may use an earlier version of a Product other than Online Services than the version that is current on the effective date of the Enrollment. For Licenses acquired in the current Enrollment term, the Use Rights for the current version apply to the use of the earlier version. If the earlier Product version includes features that are not in the new version, then the Use Rights applicable to the earlier version apply with respect to those features.
- e. **New Version Rights under Software Assurance.** Enrolled Affiliate must order and maintain continuous Software Assurance coverage for each License ordered. With Software Assurance coverage, Enterprise automatically has the right to use a new version of a licensed Product as soon as it is released, even if Enrolled Affiliate chooses not to use the new version immediately.
- (i) Except as otherwise permitted under an Enrollment, use of the new version will be subject to the new version's Use Rights.
- (ii) If the License for the earlier version of the Product is perpetual at the time the new version is released, the License for the new version will also be perpetual. Perpetual Licenses obtained through Software Assurance replace any perpetual Licenses for the earlier version.
- f. **License confirmation.** This Agreement, the applicable Enrollment, Enrolled Affiliate's order confirmation, and any documentation evidencing transfers of perpetual Licenses, together with proof of payment, will be Enrolled Affiliate's evidence of all Licenses obtained under an Enrollment.

- g. **Reorganizations, consolidations and privatizations.** If the number of Licenses covered by an Enrollment changes by more than ten percent as a result of (1) a reorganization, consolidation or privatization of an entity or an operating division, (2) a privatization of an Affiliate or an operating division of Enrolled Affiliate or any of its Affiliates, or (3) a consolidation including a merger with a third party that has an existing agreement or Enrollment, Microsoft will work with Enrolled Affiliate in good faith to determine how to accommodate its changed circumstances in the context of this Agreement.

4. Making copies of Products and re-imaging rights.

- a. **General.** Enrolled Affiliate may make as many copies of Products, as it needs to distribute them within the Enterprise. Copies must be true and complete (including copyright and trademark notices) from master copies obtained from a Microsoft approved fulfillment source. Enrolled Affiliate may use a third party to make these copies, but Enrolled Affiliate agrees it will be responsible for any third party's actions. Enrolled Affiliate agrees to make reasonable efforts to notify its employees, agents, and any other individuals who use the Products that the Products are licensed from Microsoft and subject to the terms of this Agreement.
- b. **Copies for training/evaluation and back-up.** For all Products other than Online Services, Enrolled Affiliate may: (1) use up to 20 complimentary copies of any licensed Product in a dedicated training facility on its premises for purposes of training on that particular Product, (2) use up to 10 complimentary copies of any Products for a 60-day evaluation period, and (3) use one complimentary copy of any licensed Product for back-up or archival purposes for each of its distinct geographic locations. Trials for Online Services may be available if specified in the Use Rights.
- c. **Right to re-image.** In certain cases, re-imaging is permitted using the Product media. If the Microsoft Product is licensed (1) from an original equipment manufacturer (OEM), (2) as a full packaged Product through a retail source, or (3) under another Microsoft program, then media provided under this Agreement may generally be used to create images for use in place of copies provided through that separate source. This right is conditional upon the following:
- (i) Separate Licenses must be acquired from the separate source for each Product that is re-imaged.
 - (ii) The Product, language, version, and components of the copies made must be identical to the Product, language, version, and all components of the copies they replace and the number of copies or instances of the re-imaged Product permitted remains the same.
 - (iii) Except for copies of an operating system and copies of Products licensed under another Microsoft program, the Product type (e.g., Upgrade or full License) re-imaged must be identical to the Product type licensed from the separate source.
 - (iv) Enrolled Affiliate must adhere to any Product-specific processes or requirements for re-imaging identified in the Product Terms.

Re-imaged Products remain subject to the terms and use rights of the License acquired from the separate source. This subsection does not create or extend any Microsoft warranty or support obligation.

5. Transferring and reassigning Licenses.

- a. **License transfers.** License transfers are not permitted, except that Customer or an Enrolled Affiliate may transfer only fully-paid perpetual Licenses to:
- (i) an Affiliate, or
 - (ii) a third party solely in connection with the transfer of hardware or employees to whom the Licenses have been assigned as part of (A) a privatization of an Affiliate or agency or of an

operating division of Enrolled Affiliate or an Affiliate. (B) a reorganization, or (C) a consolidation.

Upon such transfer, Customer or Enrolled Affiliate must uninstall and discontinue using the licensed Product and render any copies unusable.

- b. **Notification of License Transfer.** Enrolled Affiliate must notify Microsoft of a License transfer by completing a license transfer form, which can be obtained from <http://www.microsoft.com/licensing/contracts> and sending the completed form to Microsoft before the License transfer. No License transfer will be valid unless Enrolled Affiliate provides to the transferee, and the transferee accepts in writing, documents sufficient to enable the transferee to ascertain the scope, purpose and limitations of the rights granted by Microsoft under the licenses being transferred (including the applicable Use Rights, use and transfer restrictions, warranties and limitations of liability). Any License transfer not made in compliance with this section will be void.
- c. **Internal Assignment of Licenses and Software Assurance.** Licenses and Software Assurance must be assigned to a single user or device within the Enterprise. Licenses and Software Assurance may be reassigned within the Enterprise as described in the Use Rights.

6. Term and termination.

- a. **Term.** The term of this Agreement will be 36 full calendar months from the effective date unless terminated by either party as described below. Each Enrollment will have the term provided in that Enrollment.
- b. **Termination without cause.** Either party may terminate this Agreement, without cause, upon 60 days' written notice. In the event of termination, new Enrollments will not be accepted, but any existing Enrollment will continue for the term of such Enrollment and will continue to be governed by this Agreement.
- c. **Mid-term termination for non-appropriation of Funds.** Enrolled Affiliate may terminate this Agreement or an Enrollment without liability, penalty or further obligation to make payments if funds to make payments under the Agreement or Enrollment are not appropriated or allocated by the Enrolled Affiliate for such purpose.
- d. **Termination for cause.** Without limiting any other remedies it may have, either party may terminate an Enrollment if the other party materially breaches its obligations under this Agreement, including any obligation to submit orders or pay invoices. Except where the breach is by its nature not curable within 30 days, the terminating party must give the other party 30 days' notice of its intent to terminate and an opportunity to cure the breach.

If Microsoft gives such notice to an Enrolled Affiliate, Microsoft also will give Customer a copy of that notice and Customer agrees to help resolve the breach. If the breach affects other Enrollments and cannot be resolved between Microsoft and Enrolled Affiliate, together with Customer's help, within a reasonable period of time, Microsoft may terminate this Agreement and all Enrollments under it. If an Enrolled Affiliate ceases to be Customer's Affiliate, it must promptly notify Microsoft, and Microsoft may terminate the former Affiliate's Enrollment. If an Enrolled Affiliate terminates its Enrollment as a result of a breach by Microsoft, or if Microsoft terminates an Enrollment because Enrolled Affiliate ceases to be Customer's Affiliate, then Enrolled Affiliate will have the early termination rights described in the Enrollment.

- e. **Early termination.** If (1) an Enrolled Affiliate terminates its Enrollment as a result of a breach by Microsoft, or (2) if Microsoft terminates an Enrollment because the Enrolled Affiliate has ceased to be an Affiliate of Customer, or (3) Enrolled Affiliate terminates an Enrollment for non-appropriation of funds, or (4) Microsoft terminates an Enrollment for non-payment due to non-appropriation of funds, then the Enrolled Affiliate will have the following options:

- (i) It may immediately pay the total remaining amount due, including all installments, in which case, the Enrolled Affiliate will have perpetual rights for all Licenses it has ordered; or

(ii) It may pay only amounts due as of the termination date, in which case the Enrolled Affiliate will have perpetual Licenses for:

- 1) all copies of Products (including the latest version of Products ordered under SA coverage in the current term) for which payment has been made in full, and
- 2) the number of copies of Products it has ordered (including the latest version of Products ordered under Software Assurance coverage in current term) that is proportional to the total of installment payments paid versus total amounts due (paid and payable) if the early termination had not occurred.

(iii) In the case of early termination under subscription Enrollments, Enrolled Affiliate will have the following options:

- 1) For eligible Products, Enrolled Affiliate may obtain perpetual Licenses as described in the section of the Enrollment titled "Buy-out option," provided that Microsoft receives the buy-out order for those Licenses within 60 days after Enrolled Affiliate provides notice of termination.
- 2) In the event of a breach by Microsoft, if Customer chooses not to exercise a buy-out option, Microsoft will issue Enrolled Affiliate a credit for any amount paid in advance for Subscription Licenses that the Enterprise will not be able to use to do the termination of the Enrollment.

Nothing in this section shall affect perpetual License rights acquired either in a separate agreement or in a prior term of the terminated Enrollment.

f. **Effect of termination or expiration.** When an Enrollment expires or is terminated,

- (i) Enrolled Affiliate must order Licenses for all copies of Products it has run for which it has not previously submitted an order. Any and all unpaid payments for any order of any kind remain due and payable. Except as provided in the subsection titled "Early termination," all unpaid payments for Licenses immediately become due and payable.
- (ii) Enrolled Affiliate's right to Software Assurance benefits under this Agreement ends if it does not renew Software Assurance.

g. **Modification or termination of an Online Service for regulatory reasons.** Microsoft may modify or terminate an Online Service where there is any current or future government requirement or obligation that: (1) subjects Microsoft to any regulation or requirement not generally applicable to businesses operating in the jurisdiction; (2) presents a hardship for Microsoft to continue operating the Online Service without modification; and/or (3) causes Microsoft to believe these terms or the Online Service may conflict with any such requirement or obligation.

h. **Program updates.** Microsoft may make changes to this program that will make it necessary for Customer and its Enrolled Affiliates to enter into new agreements and Enrollments at the time of an Enrollment renewal.

7. Use, ownership, rights, and restrictions.

- a. **Products.** Unless otherwise specified in a supplemental agreement, use of any Product is governed by the Use Rights specific to each Product and version and by the terms of the applicable supplemental agreement.
- b. **Fixes.** Each Fix is licensed under the same terms as the Product to which it applies. If a Fix is not provided for a specific Product, any use rights Microsoft provides with the Fix will apply.
- c. **Non-Microsoft software and technology.** Enrolled Affiliate is solely responsible for any non-Microsoft software or technology that it installs or uses with the Products or Fixes.

- d. **Restrictions.** Enrolled Affiliate must not (and is not licensed to) (1) reverse engineer, decompile, or disassemble any Product or Fix; (2) install or use non-Microsoft software or technology in any way that would subject Microsoft's intellectual property or technology to any other license terms; or (3) work around any technical limitations in a Product or Fix or restrictions in Product documentation. Customer must not (and is not licensed to) (i) separate and run parts of a Product or Fix on more than one device, upgrade or downgrade parts of a Product or Fix at different times, or transfer parts of a Product or Fix separately; or (ii) distribute, sublicense, rent, lease, lend any Products or Fixes, in whole or in part, or use them to offer hosting services to a third party.
- e. **Reservation of rights.** Products and Fixes are protected by copyright and other intellectual property rights laws and international treaties. Microsoft reserves all rights not expressly granted in this agreement. No rights will be granted or implied by waiver or estoppel. Rights to access or use Software on a device do not give Customer any right to implement Microsoft patents or other Microsoft intellectual property in the device itself or in any other software or devices.

8. Confidentiality.

"Confidential Information" is non-public information that is designated "confidential" or that a reasonable person should understand is confidential, including Customer Data. Confidential Information does not include information that (a) becomes publicly available without a breach of this agreement, (b) the receiving party received lawfully from another source without a confidentiality obligation, (c) is independently developed, or (d) is a comment or suggestion volunteered about the other party's business, products or services.

Each party will take reasonable steps to protect the other's Confidential Information and will use the other party's Confidential Information only for purposes of the parties' business relationship. Neither party will disclose that Confidential Information to third parties, except to its employees, Affiliates, contractors, advisors and consultants ("Representatives") and then only on a need-to-know basis under nondisclosure obligations at least as protective as this agreement. Each party remains responsible for the use of the Confidential Information by its Representatives and, in the event of discovery of any unauthorized use or disclosure, must promptly notify the other party.

A party may disclose the other's Confidential Information if required by law, but only after it notifies the other party (if legally permissible) to enable the other party to seek a protective order.

Neither party is required to restrict work assignments of its Representatives who have had access to Confidential Information. Each party agrees that the use of information retained in Representatives' unaided memories in the development or deployment of the parties' respective products or services does not create liability under this Agreement or trade secret law, and each party agrees to limit what it discloses to the other accordingly.

These obligations apply (i) for Customer Data until it is deleted from the Online Services, and (ii) for all other Confidential Information, for a period of five years after a party receives the Confidential Information.

9. Privacy and compliance with laws.

- a. Enrolled Affiliate consents to the processing of personal information by Microsoft and its agents to facilitate the subject matter of this Agreement. Enrolled Affiliate will obtain all required consents from third parties under applicable privacy and data protection law before providing personal information to Microsoft.
- b. Personal information collected under this agreement (i) may be transferred, stored and processed in the United States or any other country in which Microsoft or its service providers maintain facilities and (ii) will be subject to the privacy terms specified in the Use Rights. Microsoft will abide by the requirements of European Economic Area and Swiss data protection

law regarding the collection, use, transfer, retention, and other processing of personal data from the European Economic Area and Switzerland.

- c. **U.S. export.** Products and Fixes are subject to U.S. export jurisdiction. Enrolled Affiliate must comply with all applicable international and national laws, including the U.S. Export Administration Regulations and International Traffic in Arms Regulations, and end-user, end use and destination restrictions issued by U.S. and other governments related to Microsoft products, services and technologies.

10. Warranties.

a. Limited warranties and remedies.

- (i) **Software.** Microsoft warrants that each version of the Software will perform substantially as described in the applicable Product documentation for one year from the date the Enterprise is first licensed for that version. If it does not and the Enterprise notifies Microsoft within the warranty term, then Microsoft will, at its option (1) return the price Enrolled Affiliate paid for the Software license, or (2) repair or replace the Software.
- (ii) **Online Services.** Microsoft warrants that each Online Service will perform in accordance with the applicable SLA during the Enterprise's use. The Enterprise's remedies for breach of this warranty are in the SLA.

The remedies above are the Enterprise's sole remedies for breach of the warranties in this section. Customer waives any breach of warranty claims not made during the warranty period.

- b. **Exclusions.** The warranties in this agreement do not apply to problems caused by accident, abuse, or use in a manner inconsistent with this Agreement, including failure to meet minimum system requirements. These warranties do not apply to free, trial, pre-release, or beta products, or to components of Products that Enrolled Affiliate is permitted to redistribute.
- c. **Disclaimer.** Except for the limited warranties above, Microsoft provides no other warranties or conditions and disclaims any other express, implied, or statutory warranties, including warranties of quality, title, non-infringement, merchantability, and fitness for a particular purpose.

11. Defense of third party claims.

The parties will defend each other against the third-party claims described in this section and will pay the amount of any resulting adverse final judgment or approved settlement, but only if the defending party is promptly notified in writing of the claim and has the right to control the defense and any settlement of it. The party being defended must provide the defending party with all requested assistance, information, and authority. The defending party will reimburse the other party for reasonable out-of-pocket expenses it incurs in providing assistance. This section describes the parties' sole remedies and entire liability for such claims.

- a. **By Microsoft.** Microsoft will defend Enrolled Affiliate against any third-party claim to the extent it alleges that a Product or Fix made available by Microsoft for a fee and used within the scope of the license granted (unmodified from the form provided by Microsoft and not combined with anything else) misappropriates a trade secret or directly infringes a patent, copyright, trademark or other proprietary right of a third party. If Microsoft is unable to resolve a claim of infringement under commercially reasonable terms, it may, at its option, either (1) modify or replace the Product or Fix with a functional equivalent; or (2) terminate Enrolled Affiliate's license and refund any prepaid license fees (less depreciation on a five-year, straight-line basis) for perpetual licenses and any amount paid for Online Services for any usage period after the termination date. Microsoft will not be liable for any claims or damages due to Enrolled Affiliate's continued use of a Product or Fix after being notified to stop due to a third-party claim.
- b. **By Enrolled Affiliate.** To the extent permitted by applicable law, Enrolled Affiliate will defend Microsoft against any third-party claim to the extent it alleges that: (1) any Customer Data or

non-Microsoft software hosted in an Online Service by Microsoft on Enrolled Affiliate's behalf misappropriates a trade secret or directly infringes a patent, copyright, trademark, or other proprietary right of a third party; or (2) Enrolled Affiliate's use of any Product or Fix, alone or in combination with anything else, violates the law or damages a third party.

12. Limitation of liability.

For each Product, each party's maximum, aggregate liability to the other under this Agreement is limited to direct damages finally awarded in an amount not to exceed the amounts Enrolled Affiliate was required to pay for the applicable Products during the term of this Agreement, subject to the following:

- a. **Online Services.** For Online Services, Microsoft's maximum liability to Enrolled Affiliate for any incident giving rise to a claim will not exceed the amount Enrolled Affiliate paid for the Online Service during the 12 months before the incident.
- b. **Free Products and Distributable Code.** For Products provided free of charge and code that Enrolled Affiliate is authorized to redistribute to third parties without separate payment to Microsoft, Microsoft's liability is limited to direct damages finally awarded up to US\$5,000.
- c. **Exclusions.** In no event will either party be liable for indirect, incidental, special, punitive, or consequential damages, or for loss of use, loss of business information, loss of revenue, or interruption of business, however caused or on any theory of liability.
- d. **Exceptions.** No limitation or exclusions will apply to liability arising out of either party's (1) confidentiality obligations (except for all liability related to Customer Data, which will remain subject to the limitations and exclusions above); (2) defense obligations; or (3) violation of the other party's intellectual property rights.

13. Verifying compliance.

- a. **Right to verify compliance.** Enrolled Affiliate must keep records relating to all use and distribution of Products by Enrolled Affiliate and its Affiliates. Microsoft has the right, at its expense, to the extent permitted by applicable law, to verify compliance with the Product's license terms. Enrolled Affiliate must promptly provide the independent auditor with any information the auditor reasonably requests in furtherance of the verification, including access to systems running the Products and evidence of Licenses for Products Enrolled Affiliate hosts, sublicenses, or distributes to third parties. Enrolled Affiliate agrees to complete Microsoft's self-audit process, which Microsoft may require as an alternative to a third party audit.
- b. **Remedies for non-compliance.** If verification or self-audit reveals any unlicensed use or distribution, then within 30 days, (1) Enrolled Affiliate must order sufficient Licenses to cover that use or distribution, and (2) if unlicensed use or distribution is 5% or more, Enrolled Affiliate must reimburse Microsoft for the cost Microsoft has incurred in verification and acquire the necessary additional licenses at 125% of the price based on the then-current price list and Enrolled Affiliate price level. The unlicensed use percentage is based on the total number of licenses purchased compared to actual install base. If there is no unlicensed use, Microsoft will not subject Enrolled Affiliate to another verification for at least one year. By exercising the rights and procedures described above, Microsoft does not waive its rights to enforce this Agreement or to protect its intellectual property by any other means permitted by law.
- c. **Verification process.** Microsoft will notify Enrolled Affiliate at least 30 days in advance of its intent to verify Enrolled Affiliate's compliance with the license terms for the Products Enrolled Affiliate and its Affiliates use or distribute. Microsoft will engage an independent auditor, which will be subject to a confidentiality obligation. Any information collected in the self-audit will be used solely for purposes of determining compliance. This verification will take place during normal business hours and in a manner that does not interfere unreasonably with Enrolled Affiliate's operations.

14. **Miscellaneous.**

- a. **Use of contractors.** Microsoft may use contractors to perform services, but will be responsible for their performance subject to the terms of this Agreement.
- b. **Microsoft as independent contractor.** The parties are independent contractors. Enrolled Affiliate and Microsoft each may develop products independently without using the other's Confidential Information.
- c. **Notices.** Notices to Microsoft must be sent to the address on the signature form. Notices must be in writing and will be treated as delivered on the date shown on the return receipt or on the courier or fax confirmation of delivery. Microsoft may provide information to Enrolled Affiliate about upcoming ordering deadlines, services, and subscription information in electronic form, including by email to contacts provided by Enrolled Affiliate. Emails will be treated as delivered on the transmission date.
- d. **Agreement not exclusive.** Customer is free to enter into agreements to license, use or promote non-Microsoft products.
- e. **Amendments.** Any amendment to this Agreement must be executed by both parties, except that Microsoft may change the Product Terms and the Use Rights from time to time in accordance with the terms of this Agreement. Any conflicting terms and conditions contained in an Enrolled Affiliate's purchase order will not apply. Microsoft may require Customer to sign a new agreement or an amendment before an Enrolled Affiliate enters into an Enrollment under this agreement.
- f. **Assignment.** Either party may assign this Agreement to an Affiliate, but must notify the other party in writing of the assignment. Any other proposed assignment must be approved by the non-assigning party in writing. Assignment will not relieve the assigning party of its obligations under the assigned agreement. Any attempted assignment without required approval will be void.
- g. **Applicable law; dispute resolution.** The terms of this Agreement will be governed by the laws of Customer's state, without giving effect to its conflict of laws. Disputes relating to this Agreement will be subject to applicable dispute resolution laws of Customer's state.
- h. **Severability.** If any provision in this agreement is held to be unenforceable, the balance of the agreement will remain in full force and effect.
- i. **Waiver.** Failure to enforce any provision of this agreement will not constitute a waiver. Any waiver must be in writing and signed by the waiving party.
- j. **No third-party beneficiaries.** This Agreement does not create any third-party beneficiary rights.
- k. **Survival.** All provisions survive termination or expiration of this Agreement except those requiring performance only during the term of the Agreement.
- l. **Management and Reporting.** Customer and/or Enrolled Affiliate may manage account details (e.g., contacts, orders, Licenses, software downloads) on Microsoft's Volume Licensing Service Center ("VLSC") web site (or successor site) at: <https://www.microsoft.com/licensing/servicecenter>. Upon the effective date of this Agreement and any Enrollments, the contact(s) identified for this purpose will be provided access to this site and may authorize additional users and contacts.
- m. **Order of precedence.** In the case of a conflict between any documents in this Agreement that is not expressly resolved in those documents, their terms will control in the following order from highest to lowest priority: (1) this Enterprise Agreement, (2) any Enrollment, (3) the Product Terms, (4) the Online Services Terms, (5) orders submitted under this Agreement, and (6) any other documents in this Agreement. Terms in an amendment control over the amended document and any prior amendments concerning the same subject matter.

- n. **Free Products.** It is Microsoft's intent that the terms of this Agreement and the Use Rights be in compliance with all applicable federal law and regulations. Any free Product provided to Enrolled Affiliate is for the sole use and benefit of the Enrolled Affiliate, and is not provided for use by or personal benefit of any specific government employee.
- o. **Voluntary Product Accessibility Templates.** Microsoft supports the government's obligation to provide accessible technologies to its citizens with disabilities as required by Section 508 of the Rehabilitation Act of 1973, and its state law counterparts. The Voluntary Product Accessibility Templates ("VPATs") for the Microsoft technologies used in providing the Online Services can be found at Microsoft's VPAT page. Further information regarding Microsoft's commitment to accessibility can be found at <http://www.microsoft.com/enable>.
- p. **Natural disaster.** In the event of a "natural disaster," Microsoft may provide additional assistance or rights by posting them on <http://www.microsoft.com> at such time.
- q. **Copyright violation.** Except as set forth in the section above entitled "Transferring and reassigning Licenses", the Enrolled Affiliate agrees to pay for, and comply with the terms of this Agreement and the Use Rights, for the Products it uses. Except to the extent Enrolled Affiliate is licensed under this Agreement, it will be responsible for its breach of this contract and violation of Microsoft's copyright in the Products, including payment of License fees specified in this Agreement for unlicensed use.

Supplemental Contact Information Form

This form can be used in combination with MBSA, Agreement, and Enrollment/Registration. However, a separate form must be submitted for each enrollment/registration, when more than one is submitted on a signature form. For the purposes of this form, "entity" can mean the signing entity, Customer, Enrolled Affiliate, Government Partner, Institution, or other party entering into a volume licensing program agreement. Primary and Notices contacts in this form will not apply to enrollments or registrations.

This form applies to:

- ☐ MBSA
☒ Agreement
☐ Enrollment/Affiliate Registration Form

Insert primary entity name if more than one Enrollment/Registration Form is submitted

Contact information.

Each party will notify the other in writing if any of the information in the following contact information page(s) changes. The asterisks (*) indicate required fields; if the entity chooses to designate other contact types, the same required fields must be completed for each section. By providing contact information, entity consents to its use for purposes of administering the Enrollment by Microsoft and other parties that help Microsoft administer this Enrollment. The personal information provided in connection with this agreement will be used and protected according to the privacy statement available at <https://licensing.microsoft.com>.

1. Additional notices contact.

This contact receives all notices that are sent from Microsoft. No online access is granted to this individual.

Name of entity* County of Riverside
 Contact name*: First Regina Last Funderburk
 Contact email address* RFunderburk@rivco.org
 Street address* 3450 14th Street, 4th Floor
 City* Riverside State/Province* California Postal code* 92501-3861
 Country* USA
 Phone* 951-955-2265 Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

2. Software Assurance manager.

This contact will receive online permissions to manage the Software Assurance benefits under the Enrollment or Registration.

Name of entity* County of Riverside
 Contact name*: First Regina Last Funderburk
 Contact email address* RFunderburk@rivco.org
 Street address* 3450 14th Street, 4th Floor
 City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-2265 Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

3. *Subscriptions manager.*

This contact will assign MSDN, Expression, and TechNet Plus subscription licenses to the individual subscribers under this Enrollment or Registration. Assignment of the subscription licenses is necessary for access to any of the online benefits, such as subscription downloads. This contact will also manage any complimentary or additional media purchases related to these subscriptions.

Name of entity* County of Riverside

Contact name*: First Regina Last Funderburk

Contact email address* RFunderburk@rivco.org

Street address* 3450 14th Street, 4th Floor

City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-2265 Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

4. *Online services manager.*

This contact will be provided online permissions to manage the online services ordered under the Enrollment or Registration.

Name of entity* County of Riverside

Contact name*: First Luis Last Flores

Contact email address* LFFlores@rivco.org

Street address* 3450 14th Street, 4th Floor

City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-8114 Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

5. *Customer Support Manager (CSM).*

This person is designated as the Customer Support Manager (CSM) for support-related activities.

Name of entity* County of Riverside

Contact name*: First Luis Last Flores

Contact email address* LFFlores@rivco.org

Street address* 3450 14th Street, 4th Floor

City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-8114 Fax

6. *Primary contact information.*

An individual from inside the organization must serve as the primary contact. This contact receives online administrator permissions and may grant online access to others. This contact also receives all notices unless Microsoft is provided written notice of a change.

Name of entity* County of Riverside

Contact name*: First Jim Last Smith
Contact email address* jimsmith@rivco.org
Street address* 3450 14th Street, 4th Floor
City* Riverside State/Province* CA Postal code* 92501-3861
Country* US
Phone* 951-231-5909 Fax

7. Notices contact and online administrator information.

This individual receives online administrator permissions and may grant online access to others. This contact also receives all notices.

☒ Same as primary contact

Name of entity*

Contact name*: First Last

Contact email address*

Street address*

City* State/Province* Postal code*

Country*

Phone* Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

Microsoft Document Headersheet

** This is for informational purposes only **

MSE#:

(MSL
Tracking
Number)

5-0000004275258

Doc Type:

Amendments

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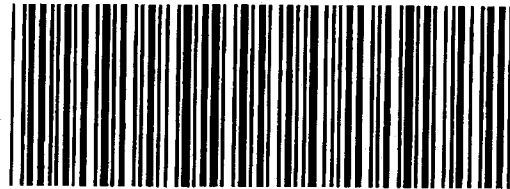
Subsidiary:

Country: **United States**

Account Manager Name / Alias:

LAR/LAD/ESA:

Insight Direct USA, Inc.



Program/Version

EA 6 2016

(Scanning Code)

ACCOUNT: County of Riverside

3

Outsourcer Name:

Business Agreement Number:

Master Agreement Number: **8084445**

Agreement Number:

Purchase Order Number:

Comments:

8/23/2019 9:42:40 PM



Amendment to Contract Documents

Agreement Number

808445

004-kayleed-S-04

This amendment ("Amendment") is entered into between the parties identified on the attached program signature form. It amends the Enrollment or Agreement identified above. All terms used but not defined in this Amendment will have the same meanings provided in that Enrollment or Agreement.

Enterprise Agreement
Custom Terms CTM

1. Section 6a, "Term", is hereby amended and restated as follows:
 - a. Term. The term of this Agreement will remain in effect unless terminated by either party as described below. Each Enrollment will have the term provided in that Enrollment.
2. The pricing that Microsoft will offer Enrolled Affiliate's Reseller for Enrollments effective between November 1, 2019 through October 31, 2021, and that will apply for the entire initial term of such Enrollments, is as follows:

Product	Price Level	Examples include but are not limited to the following*:
Enterprise Online Services** (including Full USLs, from SA USLs, Add-ons and Step Ups)	Level D minus 2%	M365 E3 and E5, Enterprise Mobility + Security E3 and E5, Office 365 Enterprise E1 or E3, Windows 10 Enterprise E3 or E5
Enterprise Products	Level D	Office 365 Pro Plus, Windows 10 Enterprise, Core CAL Suite, Enterprise CAL Suite
Additional Products	Level D	M365 F1, M365 E5 Compliance, M365 E5 Security, Office 365 Enterprise F1, Project Online, Visio Online Plan 1 or Plan 2, Dynamics 365, Azure, SQL Server, Windows Server, etc.
Server and Tools Product (applies to Server and Cloud Enrollments only)	Level D	SharePoint Server, SQL Server, BizTalk Server, Visual Studio, Core Infrastructure Suites, etc.

*The examples include online services that are available in either the commercial or government cloud offerings.

**Qualifying Enterprise Online Services are identified in the Product Terms with the cell value of "EO" in the tables for "Program Availability". The scope of Enterprise Online Services is subject to change as Enterprise Online Services are added, updated/revised or removed from the Enterprise program offering.

Exclusions apply to the additional 2% discount on Enterprise Online Services as follows:

- The price list month that applies to an order is not a factor in determining whether the additional 2% discount on Enterprise Online Services may be applied to an order. The only applicable factor is the effective date of the Enrollment.
- The discount does not apply to any extensions of the initial Term or renewal Enrollments.
- The discount does not apply to any promotional SKUs. Enrolled Affiliate is entitled to the lower of the promotional price or discounted price.

The price level that applies to Enrollments effective on or after November 1, 2021 is Level D for all Products.

The Reseller and the Enrolled Affiliate will determine the Enrolled Affiliate's actual price and payment terms.

Except for changes made by this Amendment, the Enrollment or Agreement identified above remains unchanged and in full force and effect. If there is any conflict between any provision in this Amendment and any provision in the Enrollment or Agreement identified above, this Amendment shall control.

This Amendment must be attached to a signature form to be valid.

Microsoft Internal Use Only:

Riverside County EA Amend 8.7.docx	CTM	CTM-CPT-OPT-FWK	BD
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Licensing Solution Provider Agreement Number PSA-0001527

This Licensing Solution Provider Agreement is made and entered into this 22nd day of October 2019, by and between PCMG, Inc., a Delaware corporation ("CONTRACTOR"), and the COUNTY OF RIVERSIDE, a political subdivision of the State of California, ("COUNTY").

WHEREAS, COUNTY and Microsoft Corporation ("Microsoft") have entered into that certain Microsoft Enterprise Agreement (Master Agreement No. 8084445; the "Master Agreement"), effective August 23, 2019, under which COUNTY has the ability to enter into one or more enrollments to order certain Microsoft product licenses;

WHEREAS, CONTRACTOR desires to provide support to COUNTY and its Enrolled Affiliates (as defined in the Master Agreement) for said licenses under this Agreement and hereby represents that it has the skills, experience, and knowledge necessary to perform under this Agreement; and

WHEREAS, COUNTY desires to accept CONTRACTOR's services under this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

1. This Agreement covers all enrollments for all products licensed under the Master Agreement. All terms and conditions of the Master Agreement, attached as Exhibit E of this Agreement and incorporated by reference, shall apply to the purchase of related products and services.
2. This Agreement is available for use by all government entities within the State of California (an "Enrolled Affiliate") for the duration of the Term (defined below in section 4). Enrollment documents will contain the terms and conditions specific to each entity.
3. CONTRACTOR agrees to extend the same pricing, terms, and conditions as stated in this agreement to each and every government entity in the State of California. Terms and conditions are governed by this Agreement, the Master Agreement, and the applicable enrollment documents for each entity. Entities shall make purchases in their own name, make direct payment to CONTRACTOR, and be liable directly to CONTRACTOR for all obligations.
 - 3.1 COUNTY shall in no way be responsible to CONTRACTOR for Enrolled Affiliates' purchases and obligations. COUNTY shall in no way be responsible to other entities for their purchases or any acts or omissions of CONTRACTOR, including but not limited to product selection or implementation, services or other related matters.
 - 3.2 CONTRACTOR shall notify Enrolled Affiliate in writing of the terms and conditions stated in Section 11.
4. This Agreement shall be effective from November 1, 2019 through October 31, 2021, unless terminated earlier (the "Term").
5. Hold Harmless/Indemnification:
 - 5.1 CONTRACTOR shall indemnify and hold harmless the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as Indemnitees) from any liability, action, claim or damage whatsoever, based or asserted upon any services, or acts or omissions, of CONTRACTOR, its

Licensing Solution Provider Agreement Number PSA-0001527

officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature. CONTRACTOR shall defend the Indemnitees at its sole expense including all costs and fees (including, but not limited, to attorney fees, cost of investigation, defense and settlements or awards) in any claim or action based upon such acts, omissions or services.

- 5.2 With respect to any action or claim subject to indemnification herein by CONTRACTOR, CONTRACTOR shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of COUNTY; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes CONTRACTOR indemnification to Indemnitees as set forth herein.
- 5.3 CONTRACTOR'S obligation hereunder shall be satisfied when CONTRACTOR has provided to COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action or claim involved.
6. Contractor Responsibilities: CONTRACTOR will offer the following services to each Enrolled Affiliate at no additional charge. It is the responsibility of the Enrolled Affiliate to determine which products and/or services, if any, meet their needs and communicate that to the CONTRACTOR.
 - 6.1 Provide reports showing year to date annual spend according to Enrolled Affiliate's specifications. Frequency will be determined by each Enrolled Affiliate (monthly, quarterly, etc.).
 - 6.2 Provide a short synopsis of why an amendment is needed and the ramification of each amendment to an enrollment at the time of such amendment.
 - 6.3 Provide an updated price list on an annual basis or when requested by Enrolled Affiliate.
7. CONTRACTOR's Microsoft Enterprise Agreement license subscription price attached hereto as Exhibit A and service rates attached hereto as Exhibit B.
8. CONTRACTOR's Microsoft Enterprise Agreement Participation Form attached hereto as Exhibit C and incorporated herein by reference.
9. Usage Reporting: CONTRACTOR will provide to COUNTY the Licensed Support Provider (LSP) Reporting of Active Enrollments to Master Microsoft Enterprise Agreement No. 8084445, Select Plus Agreement No. 7756479, Microsoft Premier, Unified, and MCS Support services, showing a list of enrollments by February 15th of each year. Forms shall be submitted electronically to MasterMicrosoftAdmin@rivco.org. A copy of the form is attached hereto as Exhibit D and incorporated herein by reference.
10. Administrative fees: CONTRACTOR will be charged .5% of the annual enrollment amount to leverage the Riverside County Master Microsoft Agreement No. 8084445, Select Plus Agreement No. 7756479, Microsoft Premier, Unified, and MCS Support services. This will be an annual fee, per enrollment inclusive of Affiliates Shadow Enrollments. Example: A three-year aggregated agreement with a contract amount of \$300K, divisible by three years will result in an LSP Participation Fee of \$500 annually (100K*.5%). RCIT will invoice the Awarded LSP annually based on the enrollments verified from the

Licensing Solution Provider Agreement Number PSA-0001527

“Reporting of Active Enrollments” list submitted by December 15th of each year. Payment is due to Riverside County Information Technology thirty (30) days from invoice date.

10.1 Riverside County Information Technology (RCIT) will invoice the CONTRACTOR annually based on the enrollments verified. Payment is due to RCIT within thirty (30) days of invoice date. The COUNTY will not accept credit as a form of payment.

10.2 Failure to meet the administrative fee requirements herein and submit fees on a timely basis may constitute grounds for immediate termination of this Agreement.

11. Contract Management: The contacts for this Agreement for COUNTY shall be both RCIT and Purchasing as listed below.

COUNTY Primary Contact:
Jim Smith
3450 14th Street
Riverside, CA 92501

COUNTY Secondary Contact:
Rick Hai
2980 Washington Street
Riverside, CA 92504

CONTRACTOR contact:
Sharon O. Ennis
13755 Sunrise Valley Dr., Ste 750
Herndon, VA 20171-4608

11.1 Should Contract Management contact information change, the CONTRACTOR shall provide written notice with the updated information to the COUNTY no later than 10 business days after the change.

12. Termination:

12.1 COUNTY may terminate this Agreement without cause upon thirty (30) days written notice served upon the CONTRACTOR stating the extent and effective date of termination.

12.2 COUNTY may, upon five (5) days written notice terminate this Agreement for CONTRACTOR's default, if CONTRACTOR refuses or fails to comply with the terms of this Agreement or fails to make progress that may endanger performance and does not immediately cure such failure. In the event of such termination, the COUNTY may proceed with the work in any manner deemed proper by COUNTY.

12.3 CONTRACTOR's rights under this Agreement shall terminate (except for fees accrued prior to the date of termination) upon dishonesty or a willful or material breach of this Agreement by CONTRACTOR; or in the event of CONTRACTOR's unwillingness or inability for any reason whatsoever to perform the terms of this Agreement.

13. Conduct of Contractor:

13.1 The CONTRACTOR covenants that it presently has no interest, including, but not limited to, other projects or contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with CONTRACTOR's performance under this Agreement. The CONTRACTOR further covenants that no person or subcontractor having any such interest shall be employed or retained by CONTRACTOR under this Agreement. The CONTRACTOR agrees

Licensing Solution Provider Agreement Number PSA-0001527

to inform the COUNTY of all the CONTRACTOR's interests, if any, which are or may be perceived as incompatible with the COUNTY's interests.

- 13.2 The CONTRACTOR shall not, under circumstances which could be interpreted as an attempt to influence the recipient in the conduct of his/her duties, accept any gratuity or special favor from individuals or firms with whom the CONTRACTOR is doing business or proposing to do business, in accomplishing the work under this Agreement.
- 13.3 The CONTRACTOR or its employees shall not offer gifts, gratuity, favors, and entertainment directly or indirectly to COUNTY employees.
- 13.4 CONTRACTOR shall establish adequate procedures for self-monitoring and quality control and assurance to ensure proper performance under this Agreement; and shall permit a COUNTY representative or other regulatory official to monitor, assess, or evaluate CONTRACTOR's performance under this Agreement at any time, upon reasonable notice to the CONTRACTOR.

14. Independent Contractor/Employment Eligibility/Non-Discrimination:

- 14.1 The CONTRACTOR is, for purposes relating to this Agreement, an independent contractor and shall not be deemed an employee of the COUNTY. It is expressly understood and agreed that the CONTRACTOR (including its employees, agents, and subcontractors) shall in no event be entitled to any benefits to which COUNTY employees are entitled, including but not limited to overtime, any retirement benefits, worker's compensation benefits, and injury leave or other leave benefits. There shall be no employer-employee relationship between the parties; and CONTRACTOR shall hold COUNTY harmless from any and all claims that may be made against COUNTY based upon any contention by a third party that an employer-employee relationship exists by reason of this Agreement. It is further understood and agreed by the parties that CONTRACTOR in the performance of this Agreement is subject to the control or direction of COUNTY merely as to the results to be accomplished and not as to the means and methods for accomplishing the results.
- 14.2 CONTRACTOR warrants that it shall make its best effort to fully comply with all federal and state statutes and regulations regarding the employment of aliens and others and to ensure that employees performing work under this Agreement meet the citizenship or alien status requirement set forth in federal statutes and regulations. CONTRACTOR shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by federal or state statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. CONTRACTOR shall retain all such documentation for all covered employees, for the period prescribed by the law.
- 14.3 CONTRACTOR shall not discriminate in the provision of services, allocation of benefits, accommodation in facilities, or employment of personnel on the basis of ethnic group identification, race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex in the performance of this Agreement; and, to the extent they shall be found to be applicable hereto, shall comply with the provisions of the California Fair Employment and Housing Act (Gov. Code 12900 et. seq), the Federal Civil Rights Act of 1964

Licensing Solution Provider Agreement Number PSA-0001527

(P.L. 88-352), the Americans with Disabilities Act of 1990 (42 U.S.C. S1210 et seq.) and all other applicable laws or regulations.

15. Entire Agreement: This Agreement, including any attachments or exhibits, constitutes the entire agreement of the parties with respect to its subject matter and supersedes all prior and contemporaneous representations, proposals, discussions and communications, whether oral or in writing. This Agreement may be changed or modified only by a written amendment signed by authorized representatives of both parties.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute this Agreement.

COUNTY OF RIVERSIDE, a political
subdivision of the State of California

By: 
Kevin Jeffries, Chairman
Board of Supervisors

Dated: OCT 22 2019

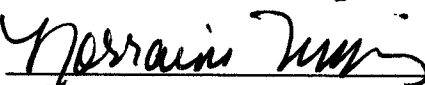
PCMG, Inc., a Delaware Corporation

By: 
Sharon O. Ennis, Senior Vice President

Dated: October 9, 2019

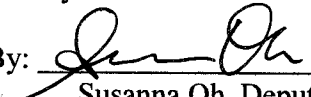
ATTEST:

Kecia Harper
Clerk of the Board

By: 
Deputy

APPROVED AS TO FORM:

Gregory P. Priamos
County Counsel

By: 
Susanna Oh, Deputy County Counsel

Licensing Solution Provider Agreement Number PSA-0001527

**Exhibit A
Microsoft Enterprise license subscription and services**

Line	Description	Price Level	Markup %
1	Enterprise Online Services** (including Full USLs, From SA USLs, Add-ons and Step Ups) M365 E3 and E5, Enterprise Mobility + Security E3 and E5, Office 365 Enterprise E1 or E3, Windows 10 Enterprise E3 or E5.	Level D Minus 2%	2.00
2	Enterprise Products Office 365 Pro Plus, Windows 10 Enterprise, Core CAL Suite, Enterprise CAL Suite.	Level D	2.00
3	Additional Products M365 F1, M365 E5 Compliance, M365 E5 Security, Office 365 Enterprise F1, Project Online, Visio Online Plan 1 or Plan 2, Dynamics 365, Azure, SQL Server, Windows Server, etc.	Level D	2.00
4	Server and Tools Product (applies to Server and Cloud Enrollments only) SharePoint Server, SQL Server, BizTalk Server, Visual Studio, Core Infrastructure Suites, etc.	Level D	2.00
5	All products for Select Plus Agreement No.7756479.		2.00
6	Microsoft Premier Support		2.00
7	Microsoft Unified Support Services		2.00
8	Microsoft Consulting Services		2.00

Licensing Solution Provider Agreement Number PSA-0001527

**Exhibit B
License Support Provider (LSP) service rates**

Line	Description	Certified Competency (Yes/No)	Hourly Rate
	Data and Artificial Intelligent		
1	Build Intelligent Apps	No	\$185
2	Build Intelligent Agents	No	\$200
3	Machine Learning	No	\$200
4	Internet of Things	No	\$185
5	Globally distributed data	No	\$190
6	OSS Databases	No	\$190
7	Cloud Scale Analytics	Yes	\$190
8	Data Platform Modernization to Azure	Yes	\$190
9	Windows Server on Azure	Yes	\$190
10	Security & Management	Yes	\$195
11	Datacenter Migration	Yes	\$190
12	Modern Business Intelligence	Yes	\$200
	Biz Apps		
1	Customer Service	No	\$175
2	Field Service	No	\$175
3	Marketing	No	\$175
4	Talent	No	\$180
5	Finance and Operations	No	\$185
6	Business Central	No	\$185
7	Power Apps	No	\$190
8	Power BI	Yes	\$190
	Apps and Infrastructure		
1	Azure Stack	No	\$200
2	High Performance Compute	Yes	\$190
3	Cloud Native Apps using Serverless	Yes	\$190
4	Modernize Apps	Yes	\$195
5	SAP on Azure	No	\$185
6	Linux on Azure	No	\$185
7	Dev Ops	No	\$190
8	Business Continuity & Disaster Recovery	Yes	\$190
9	Windows Server on Azure	Yes	\$190
10	Security & Management	Yes	\$195
11	Datacenter Migration	Yes	\$190

Licensing Solution Provider Agreement Number PSA-0001527

**Exhibit B (cont.)
License Support Provider (LSP) service rates**

Line	Description	Certified Competency (Yes/No)	Hourly Rate
	Modern Workplace		
1	User Adoption & Change Management	Yes	\$175
2	Security	Yes	\$195
3	GDPR & Compliance	Yes	\$190
4	Teamwork	Yes	\$195
5	Calling & Meetings	Yes	\$195
6	Modern Desktop	Yes	\$185
7	Office 365 Migration Assistance	Yes	\$180
7a	Mail	Yes	\$180
7b	Teams	Yes	\$195
7c	SharePoint	No	\$200
7d	OneDrive	No	\$195

Licensing Solution Provider Agreement Number PSA-0001527

Exhibit C
Microsoft LSP Participation Form

DAVE ROGERS
Assistant Chief Executive Officer
Chief Information Officer

JIM SMITH
Chief Technology Officer



JENNIFER HILBER, ACIO
Enterprise Applications Bureau

GUSTAVO VAZQUEZ, ACIO
Converged Communications Bureau
Public Safety Enterprise Communications

GIL MEJIA, ACIO
Technology Services Bureau

Microsoft LSP Participation Form
(RFQ #RIVCO-2020-RFQ-0000048 Attachment 3)

Complete this form and return to:

Attention: Rick Hai
E-mail: RHai@rivco.org

Payment should be made to:

Riverside County Information Technology
3450 14th Street, Fourth Floor
Riverside, CA 92501

County of Riverside TIN #: 95-6000930

Company Name: PCMG, Inc.

Name: Sharon O. Ennis

Title: Senior Vice President

Address: 13755 Sunrise Valley Drive, Suite 750

City: Herndon

Zip Code: 20171

Telephone #: 800-625-5468

Fax #: 703-378-4464

Email: contract@pcmg.com

The County of Riverside is the host of the Microsoft Master Agreement No. 8084445. All questions regarding the products and licensing should be directed to Microsoft.

By signing below, I am agreeing to pay the participation fees for each enrollment that is established by leveraging the County of Riverside Master Agreement in accordance to the schedule referenced on RFQ #RIVCO-2020-RFQ-0000048 and any subsequent contracts and / or amendments.

By signing below, I also agree that all enrollments will be submitted to Microsoft direct, to report enrollment activity and comply to the payment schedule per RFQ #RIVCO-2020-RFQ-0000048 to Riverside County Information Technology.

Please reference the remittance information above for where to send the payment. Failure to comply may result in the award being rescinded.

Signature

Sharon O. Ennis

Printed Name

09/17/2019

Date

Senior Vice President

Title

Licensing Solution Provider Agreement Number PSA-0001527

**Exhibit D
Microsoft LSP Reporting of Active Enrollments Form**

LSP Name	<i>Company name</i>							
RIVCO Contract ID	<i>RIVCO-20800-00x-xx/xx</i>							
Microsoft Agreement Numbers	01E69633, 01E73134, AND NEW							
Master Enrollment	Enrollment Number:	Enrollment Entity:	Start Date:	End Date:	Annual Spend	Enrollment Contact:	Enrollment Contact Email:	Enrollment Contact Tel:
8084445	87654321	Riverside County Information Technology	1/01/12	12/31/16	\$645,000.00	John Doe	John.Doe@riverside.org	951-555-1212
							-	
							-	
							-	
							-	

**Exhibit E
Master Agreement**

Attached include the followings:

- 1) Signature Form
- 2) Microsoft Enterprise Agreement
- 3) Microsoft Enterprise Agreement Amendment

Microsoft Document Headersheet

** This is for informational purposes only **

MSE#:

(MSLI
Tracking
Number)

5-0000004275258

Doc Type:

Signature Form

Do not modify the formatting or spacing of this Form above this text

Subsidiary:

Country: **United States**

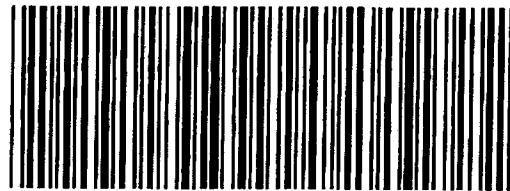
Account Manager Name / Alias:

LAR/LAD/ESA:

Insight Direct USA, Inc.

Program/Version

EA 6 2016



(Scanning Code)

ACCOUNT: County of Riverside

3

Outsourcer Name:

Business Agreement Number:

Master Agreement Number: **8084445**

Agreement Number:

Purchase Order Number:

Comments:



Volume Licensing

Program Signature Form

MBA/MESA number

Agreement number

808444S

004-kayleed-S-04

Note: Enter the applicable active numbers associated with the documents below. Microsoft requires the associated active number be indicated here, or listed below as new.

For the purposes of this form, "Customer" can mean the signing entity, Enrolled Affiliate, Government Partner, Institution, or other party entering into a volume licensing program agreement.

This signature form and all contract documents identified in the table below are entered into between the Customer and the Microsoft Affiliate signing, as of the effective date identified below.

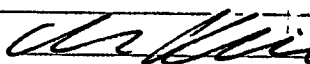
Contract Document	Number or Code
Enterprise Agreement	X20-10209
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
Amendment to Contract Documents	CTM-CPT-OPT-FWK (new)

By signing below, Customer and the Microsoft Affiliate agree that both parties (1) have received, read and understand the above contract documents, including any websites or documents incorporated by reference and any amendments and (2) agree to be bound by the terms of all such documents.

Customer	
Name of Entity (must be legal entity name)* County of Riverside	
Signature* 	
Printed First and Last Name* Richard R. Hai	
Printed Title Sr. Procurement Contract Specialist	
Signature Date* 08/22/2019	
Tax ID	

* indicates required field

FORM APPROVED COUNTY COUNSEL
BY:  8/22/19
DATE
SUSANNA N. OH

Microsoft Affiliate	
Microsoft Corporation	
Signature  Printed First and Last Name Printed Title Signature Date (date Microsoft Affiliate countersigns)	 Microsoft Microsoft Corporation AUG 23 2019 Chance Krail Duly Authorized on behalf of Microsoft Corporation
Agreement Effective Date (may be different than Microsoft's signature date)	8/23/2019

Optional 2nd Customer signature or Outsourcer signature (if applicable)

Customer
Name of Entity (must be legal entity name)*
Signature* _____
Printed First and Last Name*
Printed Title
Signature Date*

* indicates required field

Outsourcer
Name of Entity (must be legal entity name)*
Signature* _____
Printed First and Last Name*
Printed Title
Signature Date*

* indicates required field

If Customer requires physical media, additional contacts, or is reporting multiple previous Enrollments, include the appropriate form(s) with this signature form.

After this signature form is signed by the Customer, send it and the Contract Documents to Customer's channel partner or Microsoft account manager, who must submit them to the following address. When the signature form is fully executed by Microsoft, Customer will receive a confirmation copy.

Microsoft Corporation
 Dept. 551, Volume Licensing
 6100 Neil Road, Suite 210
 Reno, Nevada 89511-1137
 USA

Microsoft Document Headersheet

** This is for informational purposes only **

MSE#:

(MSLI
Tracking
Number)

5-0000004275258

Doc Type:

[REDACTED] Agreement

Do not modify the formatting or spacing of this Form above this text

Subsidiary:

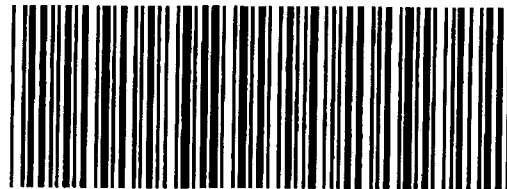
Country:

United States

Account Manager Name / Alias:

LAR/LAD/ESA:

Insight Direct USA, Inc.



Program/Version

EA 6 2016

(Scanning Code)

ACCOUNT: County of Riverside

Outsourcer Name:

Business Agreement Number:

Master Agreement Number: **8084445**

Agreement Number:

Purchase Order Number:

15

Comments:

8/23/2019 9:42:31 PM

Enterprise Agreement**State and Local**

Not for Use with Microsoft Business Agreement or Microsoft Business and Services Agreement

This Microsoft Enterprise Agreement ("Agreement") is entered into between the entities identified on the signature form.

Effective date. The effective date of this Agreement is the earliest effective date of any Enrollment entered into under this Agreement or the date Microsoft accepts this Agreement, whichever is earlier.

This Agreement consists of (1) these Agreement terms and conditions, including any amendments and the signature form and all attachments identified therein, (2) the Product Terms applicable to Products licensed under this Agreement, (3) the Online Services Terms, (4) any Affiliate Enrollment entered into under this Agreement, and (5) any order submitted under this Agreement.

Please note: Documents referenced in this Agreement but not attached to the signature form may be found at <http://www.microsoft.com/licensing/contracts> and are incorporated in this Agreement by reference, including the Product Terms and Use Rights. These documents may contain additional terms and conditions for Products licensed under this Agreement and may be changed from time to time. Customer should review such documents carefully, both at the time of signing and periodically thereafter, and fully understand all terms and conditions applicable to Products licensed.

Terms and Conditions**1. Definitions.**

"Affiliate" means

- a. with regard to Customer,
 - (i) any government agency, department, office, instrumentality, division, unit or other entity of the state or local government that is supervised by or is part of Customer, or which supervises Customer or of which Customer is a part, or which is under common supervision with Customer;
 - (ii) any county, borough, commonwealth, city, municipality, town, township, special purpose district, or other similar type of governmental instrumentality established by the laws of Customer's state and located within Customer's state jurisdiction and geographic boundaries; and
 - (iii) any other entity in Customer's state expressly authorized by the laws of Customer's state to purchase under state contracts; provided that a state and its Affiliates shall not, for purposes of this definition, be considered to be Affiliates of the federal government and its Affiliates; and
- b. with regard to Microsoft, any legal entity that Microsoft owns, that owns Microsoft, or that is under common ownership with Microsoft.

"Customer" means the legal entity that has entered into this Agreement with Microsoft.

"Customer Data" means all data, including all text, sound, software, image, or video files that are provided to Microsoft by, or on behalf of, an Enrolled Affiliate and its Affiliates through use of Online Services.

"day" means a calendar day, except for references that specify "business day".

"Enrolled Affiliate" means an entity, either Customer or any one of Customer's Affiliates that has entered into an Enrollment under this Agreement.

"Enrollment" means the document that an Enrolled Affiliate submits under this Agreement to place orders for Products.

"Enterprise" means an Enrolled Affiliate and the Affiliates for which it is responsible and chooses on its Enrollment to include in its enterprise.

"Fixes" means Product fixes, modifications or enhancements, or their derivatives, that Microsoft either releases generally (such as Product service packs) or provides to Customer to address a specific issue.

"License" means the right to download, install, access and use a Product. For certain Products, a License may be available on a fixed term or subscription basis ("Subscription License"). Licenses for Online Services will be considered Subscription Licenses.

"Microsoft" means the Microsoft Affiliate that has entered into this Agreement or an Enrollment and its Affiliates, as appropriate.

"Online Services" means the Microsoft-hosted services identified as Online Services in the Product Terms.

"Online Services Terms" means the additional terms that apply to Customer's use of Online Services published on the Volume Licensing Site and updated from time to time.

"Product" means all products identified in the Product Terms, such as all Software, Online Services and other web-based services, including pre-release or beta versions.

"Product Terms" means the document that provides information about Microsoft Products and Professional Services available through volume licensing. The Product Terms document is published on the Volume Licensing Site and is updated from time to time.

"SLA" means Service Level Agreement, which specifies the minimum service level for Online Services and is published on the Volume Licensing Site.

"Software" means licensed copies of Microsoft software identified on the Product Terms. Software does not include Online Services, but Software may be part of an Online Service.

"Software Assurance" is an offering by Microsoft that provides new version rights and other benefits for Products as further described in the Product Terms.

"Trade Secret" means information that is not generally known or readily ascertainable to the public, has economic value as a result, and has been subject to reasonable steps under the circumstances to maintain its secrecy.

"use" or "run" means to copy, install, use, access, display, run or otherwise interact.

"Use Rights" means the use rights or terms of service for each Product published on the Volume Licensing Site and updated from time to time. The Use Rights supersede the terms of any end user license agreement that accompanies a Product. The Use Rights for Software are published by Microsoft in the Product Terms. The Use Rights for Online Services are published in the Online Services Terms.

"Volume Licensing Site" means <http://www.microsoft.com/licensing/contracts> or a successor site.

2. How the Enterprise program works.

- a. **General.** The Enterprise program consists of the terms and conditions on which an Enrolled Affiliate may acquire Product Licenses. Under the Enterprise program, Customer and its Affiliates may order Licenses for Products by entering into Enrollments.
- b. **Enrollments.** The Enterprise program gives Customer and/or its Affiliates the ability to enter into one or more Enrollments to order Products. Subscription Enrollments may be available for some of these Enrollments. Notwithstanding any other provision of this Agreement, only Enrolled Affiliates identified in an Enrollment will be responsible for complying with the terms of that Enrollment, including the terms of this Agreement incorporated by reference in that Enrollment.

- c. **Licenses.** The types of Licenses available are (1) Licenses obtained under Software Assurance (L&SA), and (2) Subscription Licenses. These License types, as well as additional License Types, are further described in the Product List.

3. **Licenses for Products.**

- a. **License Grant.** Microsoft grants the Enterprise a non-exclusive, worldwide and limited right to download, install and use software Products, and to access and use the Online Services, each in the quantity ordered under an Enrollment. The rights granted are subject to the terms of this Agreement, the Use Rights and the Product Terms. Microsoft reserves all rights not expressly granted in this Agreement.
- b. **Duration of Licenses.** Subscription Licenses and most Software Assurance rights are temporary and expire when the applicable Enrollment is terminated or expires, unless the Enrolled Affiliate exercises a buy-out option, which is available for some Subscription Licenses. Except as otherwise noted in the applicable Enrollment or Use Rights, all other Licenses become perpetual only when all payments for that License have been made and the initial Enrollment term has expired.
- c. **Applicable Use Rights.**
- (i) **Products (other than Online Services).** The Use Rights in effect on the effective date of the applicable Enrollment term will apply to Enterprise's use of the version of each Product that is current at the time. For future versions and new Products, the Use Rights in effect when those versions and Products are first released will apply. Changes Microsoft makes to the Use Rights for a particular version will not apply unless the Enrolled Affiliate chooses to have those changes apply. The Use Rights applicable to perpetual Licenses that were acquired under a previous agreement or Enrollment are determined by the Agreement or Enrollment under which they were acquired. Renewal of Software Assurance does not change which Use Rights apply to those Licenses.
- (ii) **Online Services.** For Online Services, the Use Rights in effect on the subscription start date will apply for the subscription term as defined in the Product Terms.
- d. **Downgrade rights.** Enrolled Affiliate may use an earlier version of a Product other than Online Services than the version that is current on the effective date of the Enrollment. For Licenses acquired in the current Enrollment term, the Use Rights for the current version apply to the use of the earlier version. If the earlier Product version includes features that are not in the new version, then the Use Rights applicable to the earlier version apply with respect to those features.
- e. **New Version Rights under Software Assurance.** Enrolled Affiliate must order and maintain continuous Software Assurance coverage for each License ordered. With Software Assurance coverage, Enterprise automatically has the right to use a new version of a licensed Product as soon as it is released, even if Enrolled Affiliate chooses not to use the new version immediately.
- (i) Except as otherwise permitted under an Enrollment, use of the new version will be subject to the new version's Use Rights.
- (ii) If the License for the earlier version of the Product is perpetual at the time the new version is released, the License for the new version will also be perpetual. Perpetual Licenses obtained through Software Assurance replace any perpetual Licenses for the earlier version.
- f. **License confirmation.** This Agreement, the applicable Enrollment, Enrolled Affiliate's order confirmation, and any documentation evidencing transfers of perpetual Licenses, together with proof of payment, will be Enrolled Affiliate's evidence of all Licenses obtained under an Enrollment.

- g. **Reorganizations, consolidations and privatizations.** If the number of Licenses covered by an Enrollment changes by more than ten percent as a result of (1) a reorganization, consolidation or privatization of an entity or an operating division, (2) a privatization of an Affiliate or an operating division of Enrolled Affiliate or any of its Affiliates, or (3) a consolidation including a merger with a third party that has an existing agreement or Enrollment, Microsoft will work with Enrolled Affiliate in good faith to determine how to accommodate its changed circumstances in the context of this Agreement.

4. Making copies of Products and re-imaging rights.

- a. **General.** Enrolled Affiliate may make as many copies of Products, as it needs to distribute them within the Enterprise. Copies must be true and complete (including copyright and trademark notices) from master copies obtained from a Microsoft approved fulfillment source. Enrolled Affiliate may use a third party to make these copies, but Enrolled Affiliate agrees it will be responsible for any third party's actions. Enrolled Affiliate agrees to make reasonable efforts to notify its employees, agents, and any other individuals who use the Products that the Products are licensed from Microsoft and subject to the terms of this Agreement.
- b. **Copies for training/evaluation and back-up.** For all Products other than Online Services, Enrolled Affiliate may: (1) use up to 20 complimentary copies of any licensed Product in a dedicated training facility on its premises for purposes of training on that particular Product, (2) use up to 10 complimentary copies of any Products for a 60-day evaluation period, and (3) use one complimentary copy of any licensed Product for back-up or archival purposes for each of its distinct geographic locations. Trials for Online Services may be available if specified in the Use Rights.
- c. **Right to re-image.** In certain cases, re-imaging is permitted using the Product media. If the Microsoft Product is licensed (1) from an original equipment manufacturer (OEM), (2) as a full packaged Product through a retail source, or (3) under another Microsoft program, then media provided under this Agreement may generally be used to create images for use in place of copies provided through that separate source. This right is conditional upon the following:
- (i) Separate Licenses must be acquired from the separate source for each Product that is re-imaged.
 - (ii) The Product, language, version, and components of the copies made must be identical to the Product, language, version, and all components of the copies they replace and the number of copies or instances of the re-imaged Product permitted remains the same.
 - (iii) Except for copies of an operating system and copies of Products licensed under another Microsoft program, the Product type (e.g., Upgrade or full License) re-imaged must be identical to the Product type licensed from the separate source.
 - (iv) Enrolled Affiliate must adhere to any Product-specific processes or requirements for re-imaging identified in the Product Terms.

Re-imaged Products remain subject to the terms and use rights of the License acquired from the separate source. This subsection does not create or extend any Microsoft warranty or support obligation.

5. Transferring and reassigning Licenses.

- a. **License transfers.** License transfers are not permitted, except that Customer or an Enrolled Affiliate may transfer only fully-paid perpetual Licenses to:
- (i) an Affiliate, or
 - (ii) a third party solely in connection with the transfer of hardware or employees to whom the Licenses have been assigned as part of (A) a privatization of an Affiliate or agency or of an

operating division of Enrolled Affiliate or an Affiliate. (B) a reorganization, or (C) a consolidation.

Upon such transfer, Customer or Enrolled Affiliate must uninstall and discontinue using the licensed Product and render any copies unusable.

- b. **Notification of License Transfer.** Enrolled Affiliate must notify Microsoft of a License transfer by completing a license transfer form, which can be obtained from <http://www.microsoft.com/licensing/contracts> and sending the completed form to Microsoft before the License transfer. No License transfer will be valid unless Enrolled Affiliate provides to the transferee, and the transferee accepts in writing, documents sufficient to enable the transferee to ascertain the scope, purpose and limitations of the rights granted by Microsoft under the licenses being transferred (including the applicable Use Rights, use and transfer restrictions, warranties and limitations of liability). Any License transfer not made in compliance with this section will be void.
- c. **Internal Assignment of Licenses and Software Assurance.** Licenses and Software Assurance must be assigned to a single user or device within the Enterprise. Licenses and Software Assurance may be reassigned within the Enterprise as described in the Use Rights.

6. **Term and termination.**

- a. **Term.** The term of this Agreement will be 36 full calendar months from the effective date unless terminated by either party as described below. Each Enrollment will have the term provided in that Enrollment.
- b. **Termination without cause.** Either party may terminate this Agreement, without cause, upon 60 days' written notice. In the event of termination, new Enrollments will not be accepted, but any existing Enrollment will continue for the term of such Enrollment and will continue to be governed by this Agreement.
- c. **Mid-term termination for non-appropriation of Funds.** Enrolled Affiliate may terminate this Agreement or an Enrollment without liability, penalty or further obligation to make payments if funds to make payments under the Agreement or Enrollment are not appropriated or allocated by the Enrolled Affiliate for such purpose.
- d. **Termination for cause.** Without limiting any other remedies it may have, either party may terminate an Enrollment if the other party materially breaches its obligations under this Agreement, including any obligation to submit orders or pay invoices. Except where the breach is by its nature not curable within 30 days, the terminating party must give the other party 30 days' notice of its intent to terminate and an opportunity to cure the breach.

If Microsoft gives such notice to an Enrolled Affiliate, Microsoft also will give Customer a copy of that notice and Customer agrees to help resolve the breach. If the breach affects other Enrollments and cannot be resolved between Microsoft and Enrolled Affiliate, together with Customer's help, within a reasonable period of time, Microsoft may terminate this Agreement and all Enrollments under it. If an Enrolled Affiliate ceases to be Customer's Affiliate, it must promptly notify Microsoft, and Microsoft may terminate the former Affiliate's Enrollment. If an Enrolled Affiliate terminates its Enrollment as a result of a breach by Microsoft, or if Microsoft terminates an Enrollment because Enrolled Affiliate ceases to be Customer's Affiliate, then Enrolled Affiliate will have the early termination rights described in the Enrollment.

- e. **Early termination.** If (1) an Enrolled Affiliate terminates its Enrollment as a result of a breach by Microsoft, or (2) if Microsoft terminates an Enrollment because the Enrolled Affiliate has ceased to be an Affiliate of Customer, or (3) Enrolled Affiliate terminates an Enrollment for non-appropriation of funds, or (4) Microsoft terminates an Enrollment for non-payment due to non-appropriation of funds, then the Enrolled Affiliate will have the following options:
 - (i) It may immediately pay the total remaining amount due, including all installments, in which case, the Enrolled Affiliate will have perpetual rights for all Licenses it has ordered; or

(ii) It may pay only amounts due as of the termination date, in which case the Enrolled Affiliate will have perpetual Licenses for:

- 1) all copies of Products (including the latest version of Products ordered under SA coverage in the current term) for which payment has been made in full, and
- 2) the number of copies of Products it has ordered (including the latest version of Products ordered under Software Assurance coverage in current term) that is proportional to the total of installment payments paid versus total amounts due (paid and payable) if the early termination had not occurred.

(iii) In the case of early termination under subscription Enrollments, Enrolled Affiliate will have the following options:

- 1) For eligible Products, Enrolled Affiliate may obtain perpetual Licenses as described in the section of the Enrollment titled "Buy-out option," provided that Microsoft receives the buy-out order for those Licenses within 60 days after Enrolled Affiliate provides notice of termination.
- 2) In the event of a breach by Microsoft, if Customer chooses not to exercise a buy-out option, Microsoft will issue Enrolled Affiliate a credit for any amount paid in advance for Subscription Licenses that the Enterprise will not be able to use to do the termination of the Enrollment.

Nothing in this section shall affect perpetual License rights acquired either in a separate agreement or in a prior term of the terminated Enrollment.

f. **Effect of termination or expiration.** When an Enrollment expires or is terminated,

- (i) Enrolled Affiliate must order Licenses for all copies of Products it has run for which it has not previously submitted an order. Any and all unpaid payments for any order of any kind remain due and payable. Except as provided in the subsection titled "Early termination," all unpaid payments for Licenses immediately become due and payable.
- (ii) Enrolled Affiliate's right to Software Assurance benefits under this Agreement ends if it does not renew Software Assurance.

g. **Modification or termination of an Online Service for regulatory reasons.** Microsoft may modify or terminate an Online Service where there is any current or future government requirement or obligation that: (1) subjects Microsoft to any regulation or requirement not generally applicable to businesses operating in the jurisdiction; (2) presents a hardship for Microsoft to continue operating the Online Service without modification; and/or (3) causes Microsoft to believe these terms or the Online Service may conflict with any such requirement or obligation.

h. **Program updates.** Microsoft may make changes to this program that will make it necessary for Customer and its Enrolled Affiliates to enter into new agreements and Enrollments at the time of an Enrollment renewal.

7. Use, ownership, rights, and restrictions.

- a. **Products.** Unless otherwise specified in a supplemental agreement, use of any Product is governed by the Use Rights specific to each Product and version and by the terms of the applicable supplemental agreement.
- b. **Fixes.** Each Fix is licensed under the same terms as the Product to which it applies. If a Fix is not provided for a specific Product, any use rights Microsoft provides with the Fix will apply.
- c. **Non-Microsoft software and technology.** Enrolled Affiliate is solely responsible for any non-Microsoft software or technology that it installs or uses with the Products or Fixes.

- d. **Restrictions.** Enrolled Affiliate must not (and is not licensed to) (1) reverse engineer, decompile, or disassemble any Product or Fix; (2) install or use non-Microsoft software or technology in any way that would subject Microsoft's intellectual property or technology to any other license terms; or (3) work around any technical limitations in a Product or Fix or restrictions in Product documentation. Customer must not (and is not licensed to) (i) separate and run parts of a Product or Fix on more than one device, upgrade or downgrade parts of a Product or Fix at different times, or transfer parts of a Product or Fix separately; or (ii) distribute, sublicense, rent, lease, lend any Products or Fixes, in whole or in part, or use them to offer hosting services to a third party.
- e. **Reservation of rights.** Products and Fixes are protected by copyright and other intellectual property rights laws and international treaties. Microsoft reserves all rights not expressly granted in this agreement. No rights will be granted or implied by waiver or estoppel. Rights to access or use Software on a device do not give Customer any right to implement Microsoft patents or other Microsoft intellectual property in the device itself or in any other software or devices.

8. Confidentiality.

"Confidential Information" is non-public information that is designated "confidential" or that a reasonable person should understand is confidential, including Customer Data. Confidential Information does not include information that (a) becomes publicly available without a breach of this agreement, (b) the receiving party received lawfully from another source without a confidentiality obligation, (c) is independently developed, or (d) is a comment or suggestion volunteered about the other party's business, products or services.

Each party will take reasonable steps to protect the other's Confidential Information and will use the other party's Confidential Information only for purposes of the parties' business relationship. Neither party will disclose that Confidential Information to third parties, except to its employees, Affiliates, contractors, advisors and consultants ("Representatives") and then only on a need-to-know basis under nondisclosure obligations at least as protective as this agreement. Each party remains responsible for the use of the Confidential Information by its Representatives and, in the event of discovery of any unauthorized use or disclosure, must promptly notify the other party.

A party may disclose the other's Confidential Information if required by law; but only after it notifies the other party (if legally permissible) to enable the other party to seek a protective order.

Neither party is required to restrict work assignments of its Representatives who have had access to Confidential Information. Each party agrees that the use of information retained in Representatives' unaided memories in the development or deployment of the parties' respective products or services does not create liability under this Agreement or trade secret law, and each party agrees to limit what it discloses to the other accordingly.

These obligations apply (i) for Customer Data until it is deleted from the Online Services, and (ii) for all other Confidential Information, for a period of five years after a party receives the Confidential Information.

9. Privacy and compliance with laws.

- a. Enrolled Affiliate consents to the processing of personal information by Microsoft and its agents to facilitate the subject matter of this Agreement. Enrolled Affiliate will obtain all required consents from third parties under applicable privacy and data protection law before providing personal information to Microsoft.
- b. Personal information collected under this agreement (i) may be transferred, stored and processed in the United States or any other country in which Microsoft or its service providers maintain facilities and (ii) will be subject to the privacy terms specified in the Use Rights. Microsoft will abide by the requirements of European Economic Area and Swiss data protection

law regarding the collection, use, transfer, retention, and other processing of personal data from the European Economic Area and Switzerland.

- c. **U.S. export.** Products and Fixes are subject to U.S. export jurisdiction. Enrolled Affiliate must comply with all applicable international and national laws, including the U.S. Export Administration Regulations and International Traffic in Arms Regulations, and end-user, end use and destination restrictions issued by U.S. and other governments related to Microsoft products, services and technologies.

10. Warranties.

a. Limited warranties and remedies.

- (i) **Software.** Microsoft warrants that each version of the Software will perform substantially as described in the applicable Product documentation for one year from the date the Enterprise is first licensed for that version. If it does not and the Enterprise notifies Microsoft within the warranty term, then Microsoft will, at its option (1) return the price Enrolled Affiliate paid for the Software license, or (2) repair or replace the Software.
- (ii) **Online Services.** Microsoft warrants that each Online Service will perform in accordance with the applicable SLA during the Enterprise's use. The Enterprise's remedies for breach of this warranty are in the SLA.

The remedies above are the Enterprise's sole remedies for breach of the warranties in this section. Customer waives any breach of warranty claims not made during the warranty period.

- b. **Exclusions.** The warranties in this agreement do not apply to problems caused by accident, abuse, or use in a manner inconsistent with this Agreement, including failure to meet minimum system requirements. These warranties do not apply to free, trial, pre-release, or beta products, or to components of Products that Enrolled Affiliate is permitted to redistribute.
- c. **Disclaimer.** Except for the limited warranties above, Microsoft provides no other warranties or conditions and disclaims any other express, implied, or statutory warranties, including warranties of quality, title, non-infringement, merchantability, and fitness for a particular purpose.

11. Defense of third party claims.

The parties will defend each other against the third-party claims described in this section and will pay the amount of any resulting adverse final judgment or approved settlement, but only if the defending party is promptly notified in writing of the claim and has the right to control the defense and any settlement of it. The party being defended must provide the defending party with all requested assistance, information, and authority. The defending party will reimburse the other party for reasonable out-of-pocket expenses it incurs in providing assistance. This section describes the parties' sole remedies and entire liability for such claims.

- a. **By Microsoft.** Microsoft will defend Enrolled Affiliate against any third-party claim to the extent it alleges that a Product or Fix made available by Microsoft for a fee and used within the scope of the license granted (unmodified from the form provided by Microsoft and not combined with anything else) misappropriates a trade secret or directly infringes a patent, copyright, trademark or other proprietary right of a third party. If Microsoft is unable to resolve a claim of infringement under commercially reasonable terms, it may, at its option, either (1) modify or replace the Product or Fix with a functional equivalent; or (2) terminate Enrolled Affiliate's license and refund any prepaid license fees (less depreciation on a five-year, straight-line basis) for perpetual licenses and any amount paid for Online Services for any usage period after the termination date. Microsoft will not be liable for any claims or damages due to Enrolled Affiliate's continued use of a Product or Fix after being notified to stop due to a third-party claim.
- b. **By Enrolled Affiliate.** To the extent permitted by applicable law, Enrolled Affiliate will defend Microsoft against any third-party claim to the extent it alleges that: (1) any Customer Data or

non-Microsoft software hosted in an Online Service by Microsoft on Enrolled Affiliate's behalf misappropriates a trade secret or directly infringes a patent, copyright, trademark, or other proprietary right of a third party; or (2) Enrolled Affiliate's use of any Product or Fix, alone or in combination with anything else, violates the law or damages a third party.

12. Limitation of liability.

For each Product, each party's maximum, aggregate liability to the other under this Agreement is limited to direct damages finally awarded in an amount not to exceed the amounts Enrolled Affiliate was required to pay for the applicable Products during the term of this Agreement, subject to the following:

- a. **Online Services.** For Online Services, Microsoft's maximum liability to Enrolled Affiliate for any incident giving rise to a claim will not exceed the amount Enrolled Affiliate paid for the Online Service during the 12 months before the incident.
- b. **Free Products and Distributable Code.** For Products provided free of charge and code that Enrolled Affiliate is authorized to redistribute to third parties without separate payment to Microsoft, Microsoft's liability is limited to direct damages finally awarded up to US\$5,000.
- c. **Exclusions.** In no event will either party be liable for indirect, incidental, special, punitive, or consequential damages, or for loss of use, loss of business information, loss of revenue, or interruption of business, however caused or on any theory of liability.
- d. **Exceptions.** No limitation or exclusions will apply to liability arising out of either party's (1) confidentiality obligations (except for all liability related to Customer Data, which will remain subject to the limitations and exclusions above); (2) defense obligations; or (3) violation of the other party's intellectual property rights.

13. Verifying compliance.

- a. **Right to verify compliance.** Enrolled Affiliate must keep records relating to all use and distribution of Products by Enrolled Affiliate and its Affiliates. Microsoft has the right, at its expense, to the extent permitted by applicable law, to verify compliance with the Product's license terms. Enrolled Affiliate must promptly provide the independent auditor with any information the auditor reasonably requests in furtherance of the verification, including access to systems running the Products and evidence of Licenses for Products Enrolled Affiliate hosts, sublicenses, or distributes to third parties. Enrolled Affiliate agrees to complete Microsoft's self-audit process, which Microsoft may require as an alternative to a third party audit.
- b. **Remedies for non-compliance.** If verification or self-audit reveals any unlicensed use or distribution, then within 30 days, (1) Enrolled Affiliate must order sufficient Licenses to cover that use or distribution, and (2) if unlicensed use or distribution is 5% or more, Enrolled Affiliate must reimburse Microsoft for the cost Microsoft has incurred in verification and acquire the necessary additional licenses at 125% of the price based on the then-current price list and Enrolled Affiliate price level. The unlicensed use percentage is based on the total number of licenses purchased compared to actual install base. If there is no unlicensed use, Microsoft will not subject Enrolled Affiliate to another verification for at least one year. By exercising the rights and procedures described above, Microsoft does not waive its rights to enforce this Agreement or to protect its intellectual property by any other means permitted by law.
- c. **Verification process.** Microsoft will notify Enrolled Affiliate at least 30 days in advance of its intent to verify Enrolled Affiliate's compliance with the license terms for the Products Enrolled Affiliate and its Affiliates use or distribute. Microsoft will engage an independent auditor, which will be subject to a confidentiality obligation. Any information collected in the self-audit will be used solely for purposes of determining compliance. This verification will take place during normal business hours and in a manner that does not interfere unreasonably with Enrolled Affiliate's operations.

14. **Miscellaneous.**

- a. **Use of contractors.** Microsoft may use contractors to perform services, but will be responsible for their performance subject to the terms of this Agreement.
- b. **Microsoft as independent contractor.** The parties are independent contractors. Enrolled Affiliate and Microsoft each may develop products independently without using the other's Confidential Information.
- c. **Notices.** Notices to Microsoft must be sent to the address on the signature form. Notices must be in writing and will be treated as delivered on the date shown on the return receipt or on the courier or fax confirmation of delivery. Microsoft may provide information to Enrolled Affiliate about upcoming ordering deadlines, services, and subscription information in electronic form, including by email to contacts provided by Enrolled Affiliate. Emails will be treated as delivered on the transmission date.
- d. **Agreement not exclusive.** Customer is free to enter into agreements to license, use or promote non-Microsoft products.
- e. **Amendments.** Any amendment to this Agreement must be executed by both parties, except that Microsoft may change the Product Terms and the Use Rights from time to time in accordance with the terms of this Agreement. Any conflicting terms and conditions contained in an Enrolled Affiliate's purchase order will not apply. Microsoft may require Customer to sign a new agreement or an amendment before an Enrolled Affiliate enters into an Enrollment under this agreement.
- f. **Assignment.** Either party may assign this Agreement to an Affiliate, but must notify the other party in writing of the assignment. Any other proposed assignment must be approved by the non-assigning party in writing. Assignment will not relieve the assigning party of its obligations under the assigned agreement. Any attempted assignment without required approval will be void.
- g. **Applicable law; dispute resolution.** The terms of this Agreement will be governed by the laws of Customer's state, without giving effect to its conflict of laws. Disputes relating to this Agreement will be subject to applicable dispute resolution laws of Customer's state.
- h. **Severability.** If any provision in this agreement is held to be unenforceable, the balance of the agreement will remain in full force and effect.
- i. **Waiver.** Failure to enforce any provision of this agreement will not constitute a waiver. Any waiver must be in writing and signed by the waiving party.
- j. **No third-party beneficiaries.** This Agreement does not create any third-party beneficiary rights.
- k. **Survival.** All provisions survive termination or expiration of this Agreement except those requiring performance only during the term of the Agreement.
- l. **Management and Reporting.** Customer and/or Enrolled Affiliate may manage account details (e.g., contacts, orders, Licenses, software downloads) on Microsoft's Volume Licensing Service Center ("VLSC") web site (or successor site) at: <https://www.microsoft.com/licensing/servicecenter>. Upon the effective date of this Agreement and any Enrollments, the contact(s) identified for this purpose will be provided access to this site and may authorize additional users and contacts.
- m. **Order of precedence.** In the case of a conflict between any documents in this Agreement that is not expressly resolved in those documents, their terms will control in the following order from highest to lowest priority: (1) this Enterprise Agreement, (2) any Enrollment, (3) the Product Terms, (4) the Online Services Terms, (5) orders submitted under this Agreement, and (6) any other documents in this Agreement. Terms in an amendment control over the amended document and any prior amendments concerning the same subject matter.

- n. **Free Products.** It is Microsoft's intent that the terms of this Agreement and the Use Rights be in compliance with all applicable federal law and regulations. Any free Product provided to Enrolled Affiliate is for the sole use and benefit of the Enrolled Affiliate, and is not provided for use by or personal benefit of any specific government employee.
- o. **Voluntary Product Accessibility Templates.** Microsoft supports the government's obligation to provide accessible technologies to its citizens with disabilities as required by Section 508 of the Rehabilitation Act of 1973, and its state law counterparts. The Voluntary Product Accessibility Templates ("VPATs") for the Microsoft technologies used in providing the Online Services can be found at Microsoft's VPAT page. Further information regarding Microsoft's commitment to accessibility can be found at <http://www.microsoft.com/enable>.
- p. **Natural disaster.** In the event of a "natural disaster," Microsoft may provide additional assistance or rights by posting them on <http://www.microsoft.com> at such time.
- q. **Copyright violation.** Except as set forth in the section above entitled "Transferring and reassigning Licenses", the Enrolled Affiliate agrees to pay for, and comply with the terms of this Agreement and the Use Rights, for the Products it uses. Except to the extent Enrolled Affiliate is licensed under this Agreement, it will be responsible for its breach of this contract and violation of Microsoft's copyright in the Products, including payment of License fees specified in this Agreement for unlicensed use.

Supplemental Contact Information Form

This form can be used in combination with MBSA, Agreement, and Enrollment/Registration. However, a separate form must be submitted for each enrollment/registration, when more than one is submitted on a signature form. For the purposes of this form, "entity" can mean the signing entity, Customer, Enrolled Affiliate, Government Partner, Institution, or other party entering into a volume licensing program agreement. Primary and Notices contacts in this form will not apply to enrollments or registrations.

This form applies to:

- ☐ MBSA
☒ Agreement
☐ Enrollment/Affiliate Registration Form

Insert primary entity name if more than one Enrollment/Registration Form is submitted

Contact information.

Each party will notify the other in writing if any of the information in the following contact information page(s) changes. The asterisks (*) indicate required fields; if the entity chooses to designate other contact types, the same required fields must be completed for each section. By providing contact information, entity consents to its use for purposes of administering the Enrollment by Microsoft and other parties that help Microsoft administer this Enrollment. The personal information provided in connection with this agreement will be used and protected according to the privacy statement available at <https://licensing.microsoft.com>.

1. Additional notices contact.

This contact receives all notices that are sent from Microsoft. No online access is granted to this individual.

Name of entity* County of Riverside
Contact name*: First Regina Last Funderburk
Contact email address* RFunderburk@rivco.org
Street address* 3450 14th Street, 4th Floor
City* Riverside State/Province* California Postal code* 92501-3861
Country* USA

Phone* 951-955-2265 Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

2. Software Assurance manager.

This contact will receive online permissions to manage the Software Assurance benefits under the Enrollment or Registration.

Name of entity* County of Riverside
Contact name*: First Regina Last Funderburk
Contact email address* RFunderburk@rivco.org
Street address* 3450 14th Street, 4th Floor
City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-2265 Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

3. *Subscriptions manager.*

This contact will assign MSDN, Expression, and TechNet Plus subscription licenses to the individual subscribers under this Enrollment or Registration. Assignment of the subscription licenses is necessary for access to any of the online benefits, such as subscription downloads. This contact will also manage any complimentary or additional media purchases related to these subscriptions.

Name of entity* County of Riverside

Contact name*: First Regina Last Funderburk

Contact email address* RFunderburk@rivco.org

Street address* 3450 14th Street, 4th Floor

City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-2265 Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

4. *Online services manager.*

This contact will be provided online permissions to manage the online services ordered under the Enrollment or Registration.

Name of entity* County of Riverside

Contact name*: First Luis Last Flores

Contact email address* LFFlores@rivco.org

Street address* 3450 14th Street, 4th Floor

City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-8114 Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

5. *Customer Support Manager (CSM).*

This person is designated as the Customer Support Manager (CSM) for support-related activities.

Name of entity* County of Riverside

Contact name*: First Luis Last Flores

Contact email address* LFFlores@rivco.org

Street address* 3450 14th Street, 4th Floor

City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-8114 Fax

6. *Primary contact information.*

An individual from inside the organization must serve as the primary contact. This contact receives online administrator permissions and may grant online access to others. This contact also receives all notices unless Microsoft is provided written notice of a change.

Name of entity* County of Riverside

Contact name*: First Jim Last Smith
Contact email address* jimsmith@rivco.org
Street address* 3450 14th Street, 4th Floor
City* Riverside State/Province* CA Postal code* 92501-3861
Country* US
Phone* 951-231-5909 Fax

7. Notices contact and online administrator information.

This individual receives online administrator permissions and may grant online access to others. This contact also receives all notices.

☒ Same as primary contact

Name of entity*

Contact name*: First Last

Contact email address*

Street address*

City* State/Province* Postal code*

Country*

Phone* Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

Microsoft Document Headersheet

** This is for informational purposes only **

MSE#:

(MSLI
Tracking
Number)

5-0000004275258

Doc Type:

Amendments

Do not modify the formatting or spacing of this Form above this text

Subsidiary:

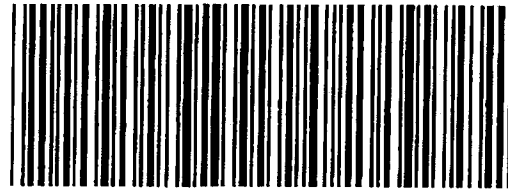
Country:

United States

Account Manager Name / Alias:

LAR/LAD/ESA:

Insight Direct USA, Inc.



Program/Version

EA 6 2016

(Scanning Code)

ACCOUNT: County of Riverside

3

Outsourcer Name:

Business Agreement Number:

Master Agreement Number: **8084445**

Agreement Number:

Purchase Order Number:

Comments:

8/23/2019 9:42:40 PM

Amendment to Contract Documents

Agreement Number:

8084445

004-kayleed-S-04

This amendment ("Amendment") is entered into between the parties identified on the attached program signature form. It amends the Enrollment or Agreement identified above. All terms used but not defined in this Amendment will have the same meanings provided in that Enrollment or Agreement.

Enterprise Agreement Custom Terms CTM

1. Section 6a, "Term", is hereby amended and restated as follows:
 - a. Term. The term of this Agreement will remain in effect unless terminated by either party as described below. Each Enrollment will have the term provided in that Enrollment.
2. The pricing that Microsoft will offer Enrolled Affiliate's Reseller for Enrollments effective between November 1, 2019 through October 31, 2021, and that will apply for the entire initial term of such Enrollments, is as follows:

Product	Price Level	Examples include but are not limited to the following*:
Enterprise Online Services** (including Full USLs, from SA USLs, Add-ons and Step Ups)	Level D minus 2%	M365 E3 and E5, Enterprise Mobility + Security E3 and E5, Office 365 Enterprise E1 or E3, Windows 10 Enterprise E3 or E5
Enterprise Products	Level D	Office 365 Pro Plus, Windows 10 Enterprise, Core CAL Suite, Enterprise CAL Suite
Additional Products	Level D	M365 F1, M365 E5 Compliance, M365 E5 Security, Office 365 Enterprise F1, Project Online, Visio Online Plan 1 or Plan 2, Dynamics 365, Azure, SQL Server, Windows Server, etc.
Server and Tools Product (applies to Server and Cloud Enrollments only)	Level D	SharePoint Server, SQL Server, BizTalk Server, Visual Studio, Core Infrastructure Suites, etc.

*The examples include online services that are available in either the commercial or government cloud offerings.

**Qualifying Enterprise Online Services are identified in the Product Terms with the cell value of "EO" in the tables for "Program Availability". The scope of Enterprise Online Services is subject to change as Enterprise Online Services are added, updated/revised or removed from the Enterprise program offering.

Exclusions apply to the additional 2% discount on Enterprise Online Services as follows:

- The price list month that applies to an order is not a factor in determining whether the additional 2% discount on Enterprise Online Services may be applied to an order. The only applicable factor is the effective date of the Enrollment.
- The discount does not apply to any extensions of the initial Term or renewal Enrollments.
- The discount does not apply to any promotional SKUs. Enrolled Affiliate is entitled to the lower of the promotional price or discounted price.

The price level that applies to Enrollments effective on or after November 1, 2021 is Level D for all Products.

The Reseller and the Enrolled Affiliate will determine the Enrolled Affiliate's actual price and payment terms.

Except for changes made by this Amendment, the Enrollment or Agreement identified above remains unchanged and in full force and effect. If there is any conflict between any provision in this Amendment and any provision in the Enrollment or Agreement identified above, this Amendment shall control.

This Amendment must be attached to a signature form to be valid.

Microsoft Internal Use Only:

Riverside County EA Amend 8.7.docx	CTM	CTM-CPT-OPT-FWK	BD
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Licensing Solution Provider Agreement Number PSA-0001528

This Licensing Solution Provider Agreement is made and entered into this 22nd day of October 2019, by and between SHI International Corp., a New Jersey corporation ("CONTRACTOR"), and the COUNTY OF RIVERSIDE, a political subdivision of the State of California, ("COUNTY").

WHEREAS, COUNTY and Microsoft Corporation ("Microsoft") have entered into that certain Microsoft Enterprise Agreement (Master Agreement No. 8084445; the "Master Agreement"), effective August 23, 2019, under which COUNTY has the ability to enter into one or more enrollments to order certain Microsoft product licenses;

WHEREAS, CONTRACTOR desires to provide support to COUNTY and its Enrolled Affiliates (as defined in the Master Agreement) for said licenses under this Agreement and hereby represents that it has the skills, experience, and knowledge necessary to perform under this Agreement; and

WHEREAS, COUNTY desires to accept CONTRACTOR's services under this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

1. This Agreement covers all enrollments for all products licensed under the Master Agreement. All terms and conditions of the Master Agreement, attached as Exhibit E of this Agreement and incorporated by reference, shall apply to the purchase of related products and services.
2. This Agreement is available for use by all government entities within the State of California (an "Enrolled Affiliate") for the duration of the Term (defined below in section 4). Enrollment documents will contain the terms and conditions specific to each entity.
3. CONTRACTOR agrees to extend the same pricing, terms, and conditions as stated in this agreement to each and every government entity in the State of California. Terms and conditions are governed by this Agreement, the Master Agreement, and the applicable enrollment documents for each entity. Entities shall make purchases in their own name, make direct payment to CONTRACTOR, and be liable directly to CONTRACTOR for all obligations.
 - 3.1 COUNTY shall in no way be responsible to CONTRACTOR for Enrolled Affiliates' purchases and obligations. COUNTY shall in no way be responsible to other entities for their purchases or any acts or omissions of CONTRACTOR, including but not limited to product selection or implementation, services or other related matters.
 - 3.2 CONTRACTOR shall notify Enrolled Affiliate in writing of the terms and conditions stated in Section 11.
4. This Agreement shall be effective from November 1, 2019 through October 31, 2021, unless terminated earlier (the "Term").
5. Hold Harmless/Indemnification:
 - 5.1 CONTRACTOR shall indemnify and hold harmless the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as Indemnitees) from any liability, action, claim or damage whatsoever, based or asserted upon any services, or acts or omissions, of CONTRACTOR, its

Licensing Solution Provider Agreement Number PSA-0001528

officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature. CONTRACTOR shall defend the Indemnitees at its sole expense including all costs and fees (including, but not limited, to attorney fees, cost of investigation, defense and settlements or awards) in any claim or action based upon such acts, omissions or services.

- 5.2 With respect to any action or claim subject to indemnification herein by CONTRACTOR, CONTRACTOR shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of COUNTY; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes CONTRACTOR indemnification to Indemnitees as set forth herein.
- 5.3 CONTRACTOR'S obligation hereunder shall be satisfied when CONTRACTOR has provided to COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action or claim involved.
6. Contractor Responsibilities: CONTRACTOR will offer the following services to each Enrolled Affiliate at no additional charge. It is the responsibility of the Enrolled Affiliate to determine which products and/or services, if any, meet their needs and communicate that to the CONTRACTOR.
 - 6.1 Provide reports showing year to date annual spend according to Enrolled Affiliate's specifications. Frequency will be determined by each Enrolled Affiliate (monthly, quarterly, etc.).
 - 6.2 Provide a short synopsis of why an amendment is needed and the ramification of each amendment to an enrollment at the time of such amendment.
 - 6.3 Provide an updated price list on an annual basis or when requested by Enrolled Affiliate.
7. CONTRACTOR's Microsoft Enterprise Agreement license subscription price attached hereto as Exhibit A and service rates attached hereto as Exhibit B.
8. CONTRACTOR's Microsoft Enterprise Agreement Participation Form attached hereto as Exhibit C and incorporated herein by reference.
9. Usage Reporting: CONTRACTOR will provide to COUNTY the Licensed Support Provider (LSP) Reporting of Active Enrollments to Master Microsoft Enterprise Agreement No. 8084445, Select Plus Agreement No. 7756479, Microsoft Premier, Unified, and MCS Support services, showing a list of enrollments by February 15th of each year. Forms shall be submitted electronically to MasterMicrosoftAdmin@rivco.org. A copy of the form is attached hereto as Exhibit D and incorporated herein by reference.
10. Administrative fees: CONTRACTOR will be charged .5% of the annual enrollment amount to leverage the Riverside County Master Microsoft Agreement No. 8084445, Select Plus Agreement No. 7756479, Microsoft Premier, Unified, and MCS Support services. This will be an annual fee, per enrollment inclusive of Affiliates Shadow Enrollments. Example: A three-year aggregated agreement with a contract amount of \$300K, divisible by three years will result in an LSP Participation Fee of \$500 annually (100K*.5%). RCIT will invoice the Awarded LSP annually based on the enrollments verified from the

Licensing Solution Provider Agreement Number PSA-0001528

“Reporting of Active Enrollments” list submitted by December 15th of each year. Payment is due to Riverside County Information Technology thirty (30) days from invoice date.

10.1 Riverside County Information Technology (RCIT) will invoice the CONTRACTOR annually based on the enrollments verified. Payment is due to RCIT within thirty (30) days of invoice date. The COUNTY will not accept credit as a form of payment.

10.2 Failure to meet the administrative fee requirements herein and submit fees on a timely basis may constitute grounds for immediate termination of this Agreement.

11. Contract Management: The contacts for this Agreement for COUNTY shall be both RCIT and Purchasing as listed below.

COUNTY Primary Contact:
Jim Smith
3450 14th Street
Riverside, CA 92501

COUNTY Secondary Contact:
Rick Hai
2980 Washington Street
Riverside, CA 92504

CONTRACTOR contact:
Contracts Department
290 Davidson Avenue
Somerset, NJ 08873

11.1 Should Contract Management contact information change, the CONTRACTOR shall provide written notice with the updated information to the COUNTY no later than 10 business days after the change.

12. Termination:

12.1 COUNTY may terminate this Agreement without cause upon thirty (30) days written notice served upon the CONTRACTOR stating the extent and effective date of termination.

12.2 COUNTY may, upon five (5) days written notice terminate this Agreement for CONTRACTOR's default, if CONTRACTOR refuses or fails to comply with the terms of this Agreement or fails to make progress that may endanger performance and does not immediately cure such failure. In the event of such termination, the COUNTY may proceed with the work in any manner deemed proper by COUNTY.

12.3 CONTRACTOR's rights under this Agreement shall terminate (except for fees accrued prior to the date of termination) upon dishonesty or a willful or material breach of this Agreement by CONTRACTOR; or in the event of CONTRACTOR's unwillingness or inability for any reason whatsoever to perform the terms of this Agreement.

13. Conduct of Contractor:

13.1 The CONTRACTOR covenants that it presently has no interest, including, but not limited to, other projects or contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with CONTRACTOR's performance under this Agreement. The CONTRACTOR further covenants that no person or subcontractor having any such interest shall be employed or retained by CONTRACTOR under this Agreement. The CONTRACTOR agrees

Licensing Solution Provider Agreement Number PSA-0001528

to inform the COUNTY of all the CONTRACTOR's interests, if any, which are or may be perceived as incompatible with the COUNTY's interests.

- 13.2 The CONTRACTOR shall not, under circumstances which could be interpreted as an attempt to influence the recipient in the conduct of his/her duties, accept any gratuity or special favor from individuals or firms with whom the CONTRACTOR is doing business or proposing to do business, in accomplishing the work under this Agreement.
- 13.3 The CONTRACTOR or its employees shall not offer gifts, gratuity, favors, and entertainment directly or indirectly to COUNTY employees.
- 13.4 CONTRACTOR shall establish adequate procedures for self-monitoring and quality control and assurance to ensure proper performance under this Agreement; and shall permit a COUNTY representative or other regulatory official to monitor, assess, or evaluate CONTRACTOR's performance under this Agreement at any time, upon reasonable notice to the CONTRACTOR.

14. Independent Contractor/Employment Eligibility/Non-Discrimination:

- 14.1 The CONTRACTOR is, for purposes relating to this Agreement, an independent contractor and shall not be deemed an employee of the COUNTY. It is expressly understood and agreed that the CONTRACTOR (including its employees, agents, and subcontractors) shall in no event be entitled to any benefits to which COUNTY employees are entitled, including but not limited to overtime, any retirement benefits, worker's compensation benefits, and injury leave or other leave benefits. There shall be no employer-employee relationship between the parties; and CONTRACTOR shall hold COUNTY harmless from any and all claims that may be made against COUNTY based upon any contention by a third party that an employer-employee relationship exists by reason of this Agreement. It is further understood and agreed by the parties that CONTRACTOR in the performance of this Agreement is subject to the control or direction of COUNTY merely as to the results to be accomplished and not as to the means and methods for accomplishing the results.
- 14.2 CONTRACTOR warrants that it shall make its best effort to fully comply with all federal and state statutes and regulations regarding the employment of aliens and others and to ensure that employees performing work under this Agreement meet the citizenship or alien status requirement set forth in federal statutes and regulations. CONTRACTOR shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by federal or state statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. CONTRACTOR shall retain all such documentation for all covered employees, for the period prescribed by the law.
- 14.3 CONTRACTOR shall not discriminate in the provision of services, allocation of benefits, accommodation in facilities, or employment of personnel on the basis of ethnic group identification, race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex in the performance of this Agreement; and, to the extent they shall be found to be applicable hereto, shall comply with the provisions of the California Fair Employment and Housing Act (Gov. Code 12900 et. seq), the Federal Civil Rights Act of 1964 (P.L. 88-352), the Americans with Disabilities Act of 1990 (42 U.S.C. §1210 et seq.) and all other applicable laws or regulations.

Licensing Solution Provider Agreement Number PSA-0001528

15. Entire Agreement: This Agreement, including any attachments or exhibits, constitutes the entire agreement of the parties with respect to its subject matter and supersedes all prior and contemporaneous representations, proposals, discussions and communications, whether oral or in writing. This Agreement may be changed or modified only by a written amendment signed by authorized representatives of both parties.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute this Agreement.

COUNTY OF RIVERSIDE, a political
subdivision of the State of California

SHI International Corp., a New Jersey corporation

By: 
Kevin Jeffries, Chairman
Board of Supervisors

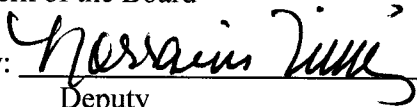
By: 
Natalie Castagno
Director of Contracts and RFP's

OCT 22 2019
Dated: _____

Dated: October 11, 2019

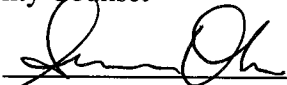
ATTEST:

Kecia Harper
Clerk of the Board

By: 
Deputy

APPROVED AS TO FORM:

Gregory P. Priamos
County Counsel

By: 
Susanna Oh, Deputy County Counsel

Licensing Solution Provider Agreement Number PSA-0001528

**Exhibit A
Microsoft Enterprise license subscription and services**

Line	Description	Price Level	Markup %
1	Enterprise Online Services** (including Full USLs, From SA USLs, Add-ons and Step Ups) M365 E3 and E5, Enterprise Mobility + Security E3 and E5, Office 365 Enterprise E1 or E3, Windows 10 Enterprise E3 or E5.	Level D Minus 2%	.50
2	Enterprise Products Office 365 Pro Plus, Windows 10 Enterprise, Core CAL Suite, Enterprise CAL Suite.	Level D	.50
3	Additional Products M365 F1, M365 E5 Compliance, M365 E5 Security, Office 365 Enterprise F1, Project Online, Visio Online Plan 1 or Plan 2, Dynamics 365, Azure, SQL Server, Windows Server, etc.	Level D	.50
4	Server and Tools Product (applies to Server and Cloud Enrollments only) SharePoint Server, SQL Server, BizTalk Server, Visual Studio, Core Infrastructure Suites, etc.	Level D	.50
5	All products for Select Plus Agreement No.7756479.		.50
6	Microsoft Premier Support		.50
7	Microsoft Unified Support Services		.50
8	Microsoft Consulting Services		.50

Licensing Solution Provider Agreement Number PSA-0001528

**Exhibit B
License Support Provider (LSP) service rates**

Line	Description	Certified Competency (Yes/No)	Hourly Rate
	Data and Artificial Intelligent		
1	Build Intelligent Apps	Yes	\$300
2	Build Intelligent Agents	Yes	\$300
3	Machine Learning	Yes	\$300
4	Internet of Things	Yes	\$300
5	Globally distributed data	Yes	\$300
6	OSS Databases	Yes	\$300
7	Cloud Scale Analytics	Yes	\$300
8	Data Platform Modernization to Azure	Yes	\$300
9	Windows Server on Azure	Yes	\$300
10	Security & Management	Yes	\$300
11	Datacenter Migration	Yes	\$300
12	Modern Business Intelligence	Yes	\$300
	Biz Apps		
1	Customer Service	Yes	\$300
2	Field Service	Yes	\$300
3	Marketing	Yes	\$300
4	Talent	Yes	\$300
5	Finance and Operations	Yes	\$300
6	Business Central	Yes	\$300
7	Power Apps	Yes	\$300
8	Power BI	Yes	\$300
	Apps and Infrastructure		
1	Azure Stack	Yes	\$300
2	High Performance Compute	Yes	\$300
3	Cloud Native Apps using Serverless	Yes	\$300
4	Modernize Apps	Yes	\$300
5	SAP on Azure	Yes	\$300
6	Linux on Azure	Yes	\$300
7	Dev Ops	Yes	\$300
8	Business Continuity & Disaster Recovery	Yes	\$300
9	Windows Server on Azure	Yes	\$300
10	Security & Management	Yes	\$300
11	Datacenter Migration	Yes	\$300

Licensing Solution Provider Agreement Number PSA-0001528

**Exhibit B (cont.)
License Support Provider (LSP) service rates**

Line	Description	Certified Competency (Yes/No)	Hourly Rate
	Modern Workplace		
1	User Adoption & Change Management	Yes	\$300
2	Security	Yes	\$300
3	GDPR & Compliance	Yes	\$300
4	Teamwork	Yes	\$300
5	Calling & Meetings	Yes	\$300
6	Modern Desktop	Yes	\$300
7	Office 365 Migration Assistance	Yes	\$300
7a	Mail	Yes	\$300
7b	Teams	Yes	\$300
7c	SharePoint	Yes	\$300
7d	OneDrive	Yes	\$300

Licensing Solution Provider Agreement Number PSA-0001528

Exhibit C
Microsoft LSP Participation Form

DAVE ROGERS
Assistant Chief Executive Officer
Chief Information Officer

JIM SMITH
Chief Technology Officer



JENNIFER HILBER, ACIO
Enterprise Applications Bureau

GUSTAVO VAZQUEZ, ACIO
Converged Communications Bureau
Public Safety Enterprise Communications

GIL MEJIA, ACIO
Technology Services Bureau

Microsoft LSP Participation Form
(RFQ #RIVCO-2020-RFQ-0000048 Attachment 3)

Complete this form and return to:

Attention: Rick Hai
E-mail: RHai@rivco.org

Payment should be made to:
Riverside County Information Technology
3450 14th Street, Fourth Floor
Riverside, CA 92501

County of Riverside TIN #: 95-6000930

Company Name: SHI International Corp.
Name: Nick Grappone Title: Program Manager
Address: 290 Davidson Avenue
City: Somerset, NJ Zip Code: 08873 Telephone #: 732-564-8189
Fax #: _____ Email: nick_grappone@shi.com

The County of Riverside is the host of the Microsoft Master Agreement No. 8084445. All questions regarding the products and licensing should be directed to Microsoft.

By signing below, I am agreeing to pay the participation fees for each enrollment that is established by leveraging the County of Riverside Master Agreement in accordance to the schedule referenced on RFQ #RIVCO-2020-RFQ-0000048 and any subsequent contracts and / or amendments.

By signing below, I also agree that all enrollments will be submitted to Microsoft direct, to report enrollment activity and comply to the payment schedule per RFQ #RIVCO-2020-RFQ-0000048 to Riverside County Information Technology.

Please reference the remittance information above for where to send the payment. Failure to comply may result in the award being rescinded.

Nick Grappone
Signature

9/19/2019
Date

Nick Grappone
Printed Name

Program Manager
Title

Licensing Solution Provider Agreement Number PSA-0001528

**Exhibit D
Microsoft LSP Reporting of Active Enrollments Form**

LSP Name	<i>Company name</i>							
RIVCO Contract ID	<i>RIVCO-20800-00x-xx/xx</i>							
Microsoft Agreement Numbers	01E69633, 01E73134, AND NEW							
Master Enrollment	Enrollment Number:	Enrollment Entity:	Start Date:	End Date:	Annual Spend	Enrollment Contact:	Enrollment Contact Email:	Enrollment Contact Tel:
8084445	87654321	Riverside County Information Technology	1/01/12	12/31/16	\$645,000.00	John Doe	John.Doe@riverside.org	951-555-1212
							-	
							-	
							-	

Exhibit E
Master Agreement

Attached include the followings:

- 1) Signature Form
- 2) Microsoft Enterprise Agreement
- 3) Microsoft Enterprise Agreement Amendment

Microsoft Document Headersheet

** This is for informational purposes only **

MSE#:

(MSLI
Tracking
Number)

5-0000004275258

Doc Type:

Signature Form

Do not modify the formatting or spacing of this Form above this text

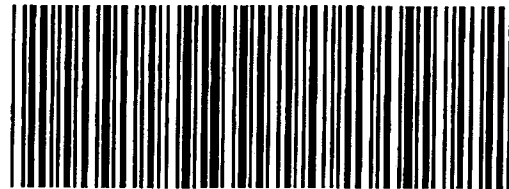
Subsidiary:

Country: **United States**

Account Manager Name / Alias:

LAR/LAD/ESA:

Insight Direct USA, Inc.



Program/Version

EA 6 2016

(Scanning Code)

ACCOUNT: County of Riverside

3

Outsourcer Name:

Business Agreement Number:

Master Agreement Number: **8084445**

Agreement Number:

Purchase Order Number:

Comments:



Volume Licensing

Program Signature Form

MBA/MESA number

Agreement number

8084445

004-kayleed-S-04

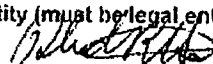
Note: Enter the applicable active numbers associated with the documents below. Microsoft requires the associated active number be indicated here, or listed below as new.

For the purposes of this form, "Customer" can mean the signing entity, Enrolled Affiliate, Government Partner, Institution, or other party entering into a volume licensing program agreement.

This signature form and all contract documents identified in the table below are entered into between the Customer and the Microsoft Affiliate signing, as of the effective date identified below.

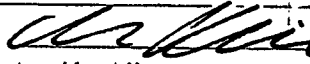
Contract Document	Number or Code
Enterprise Agreement	X20-10209
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<Choose Agreement>	Document Number or Code
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<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
Amendment to Contract Documents	CTM-CPT-OPT-FWK (new)

By signing below, Customer and the Microsoft Affiliate agree that both parties (1) have received, read and understand the above contract documents, including any websites or documents incorporated by reference and any amendments and (2) agree to be bound by the terms of all such documents.

Customer	
Name of Entity (must be legal entity name)* County of Riverside	
Signature* 	
Printed First and Last Name* Richard R. Hai	
Printed Title Sr. Procurement Contract Specialist	
Signature Date* 08/22/2019	
Tax ID	

* indicates required field

FORM APPROVED COUNTY COUNSEL
BY:  8/22/19
DATE
SUSANNA N. OH

Microsoft Affiliate	
Microsoft Corporation	
Signature 	 Microsoft Microsoft Corporation AUG 23 2019 Chance Krail Duly Authorized on behalf of Microsoft Corporation
Printed First and Last Name	
Printed Title	
Signature Date (date Microsoft Affiliate countersigns)	
Agreement Effective Date (may be different than Microsoft's signature date)	8/23/2019

Optional 2nd Customer signature or Outsourcer signature (if applicable)

Customer
Name of Entity (must be legal entity name)*
Signature*
Printed First and Last Name*
Printed Title
Signature Date*

* indicates required field

Outsourcer
Name of Entity (must be legal entity name)*
Signature*
Printed First and Last Name*
Printed Title
Signature Date*

* indicates required field

If Customer requires physical media, additional contacts, or is reporting multiple previous Enrollments, include the appropriate form(s) with this signature form.

After this signature form is signed by the Customer, send it and the Contract Documents to Customer's channel partner or Microsoft account manager, who must submit them to the following address. When the signature form is fully executed by Microsoft, Customer will receive a confirmation copy.

Microsoft Corporation
Dept. 551, Volume Licensing
6100 Neil Road, Suite 210
Reno, Nevada 89511-1137
USA

Microsoft Document Headersheet

** This is for informational purposes only **

MSE#:

(MSLI
Tracking
Number)

5-0000004275258

Doc Type:

[REDACTED] Agreement

Do not modify the formatting or spacing of this Form above this text

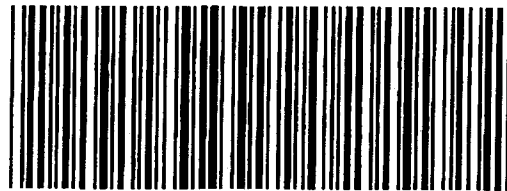
Subsidiary:

Country: **United States**

Account Manager Name / Alias:

LAR/LAD/ESA:

Insight Direct USA, Inc.



Program/Version

EA 6 2016

(Scanning Code)

ACCOUNT: County of Riverside

Outsourcer Name:

Business Agreement Number:

Master Agreement Number: **8084445**

Agreement Number:

Purchase Order Number:

15

Comments:

8/23/2019 9:42:31 PM



Enterprise Agreement

State and Local

Not for Use with Microsoft Business Agreement or Microsoft Business and Services Agreement

This Microsoft Enterprise Agreement ("Agreement") is entered into between the entities identified on the signature form.

Effective date. The effective date of this Agreement is the earliest effective date of any Enrollment entered into under this Agreement or the date Microsoft accepts this Agreement, whichever is earlier.

This Agreement consists of (1) these Agreement terms and conditions, including any amendments and the signature form and all attachments identified therein, (2) the Product Terms applicable to Products licensed under this Agreement, (3) the Online Services Terms, (4) any Affiliate Enrollment entered into under this Agreement, and (5) any order submitted under this Agreement.

Please note: Documents referenced in this Agreement but not attached to the signature form may be found at <http://www.microsoft.com/licensing/contracts> and are incorporated in this Agreement by reference, including the Product Terms and Use Rights. These documents may contain additional terms and conditions for Products licensed under this Agreement and may be changed from time to time. Customer should review such documents carefully, both at the time of signing and periodically thereafter, and fully understand all terms and conditions applicable to Products licensed.

Terms and Conditions

1. Definitions.

"Affiliate" means

- a. with regard to Customer,
 - (i) any government agency, department, office, instrumentality, division, unit or other entity of the state or local government that is supervised by or is part of Customer, or which supervises Customer or of which Customer is a part, or which is under common supervision with Customer;
 - (ii) any county, borough, commonwealth, city, municipality, town, township, special purpose district, or other similar type of governmental instrumentality established by the laws of Customer's state and located within Customer's state jurisdiction and geographic boundaries; and
 - (iii) any other entity in Customer's state expressly authorized by the laws of Customer's state to purchase under state contracts; provided that a state and its Affiliates shall not, for purposes of this definition, be considered to be Affiliates of the federal government and its Affiliates; and
- b. with regard to Microsoft, any legal entity that Microsoft owns, that owns Microsoft, or that is under common ownership with Microsoft.

"Customer" means the legal entity that has entered into this Agreement with Microsoft.

"Customer Data" means all data, including all text, sound, software, image, or video files that are provided to Microsoft by, or on behalf of, an Enrolled Affiliate and its Affiliates through use of Online Services.

"day" means a calendar day, except for references that specify "business day".

"Enrolled Affiliate" means an entity, either Customer or any one of Customer's Affiliates that has entered into an Enrollment under this Agreement.

"Enrollment" means the document that an Enrolled Affiliate submits under this Agreement to place orders for Products.

"Enterprise" means an Enrolled Affiliate and the Affiliates for which it is responsible and chooses on its Enrollment to include in its enterprise.

"Fixes" means Product fixes, modifications or enhancements, or their derivatives, that Microsoft either releases generally (such as Product service packs) or provides to Customer to address a specific issue.

"License" means the right to download, install, access and use a Product. For certain Products, a License may be available on a fixed term or subscription basis ("Subscription License"). Licenses for Online Services will be considered Subscription Licenses.

"Microsoft" means the Microsoft Affiliate that has entered into this Agreement or an Enrollment and its Affiliates, as appropriate.

"Online Services" means the Microsoft-hosted services identified as Online Services in the Product Terms.

"Online Services Terms" means the additional terms that apply to Customer's use of Online Services published on the Volume Licensing Site and updated from time to time.

"Product" means all products identified in the Product Terms, such as all Software, Online Services and other web-based services, including pre-release or beta versions.

"Product Terms" means the document that provides information about Microsoft Products and Professional Services available through volume licensing. The Product Terms document is published on the Volume Licensing Site and is updated from time to time.

"SLA" means Service Level Agreement, which specifies the minimum service level for Online Services and is published on the Volume Licensing Site.

"Software" means licensed copies of Microsoft software identified on the Product Terms. Software does not include Online Services, but Software may be part of an Online Service.

"Software Assurance" is an offering by Microsoft that provides new version rights and other benefits for Products as further described in the Product Terms.

"Trade Secret" means information that is not generally known or readily ascertainable to the public, has economic value as a result, and has been subject to reasonable steps under the circumstances to maintain its secrecy.

"use" or "run" means to copy, install, use, access, display, run or otherwise interact.

"Use Rights" means the use rights or terms of service for each Product published on the Volume Licensing Site and updated from time to time. The Use Rights supersede the terms of any end user license agreement that accompanies a Product. The Use Rights for Software are published by Microsoft in the Product Terms. The Use Rights for Online Services are published in the Online Services Terms.

"Volume Licensing Site" means <http://www.microsoft.com/licensing/contracts> or a successor site.

2. How the Enterprise program works.

- a. **General.** The Enterprise program consists of the terms and conditions on which an Enrolled Affiliate may acquire Product Licenses. Under the Enterprise program, Customer and its Affiliates may order Licenses for Products by entering into Enrollments.
- b. **Enrollments.** The Enterprise program gives Customer and/or its Affiliates the ability to enter into one or more Enrollments to order Products. Subscription Enrollments may be available for some of these Enrollments. Notwithstanding any other provision of this Agreement, only Enrolled Affiliates identified in an Enrollment will be responsible for complying with the terms of that Enrollment, including the terms of this Agreement incorporated by reference in that Enrollment.

- c. **Licenses.** The types of Licenses available are (1) Licenses obtained under Software Assurance (L&SA), and (2) Subscription Licenses. These License types, as well as additional License Types, are further described in the Product List.

3. **Licenses for Products.**

- a. **License Grant.** Microsoft grants the Enterprise a non-exclusive, worldwide and limited right to download, install and use software Products, and to access and use the Online Services, each in the quantity ordered under an Enrollment. The rights granted are subject to the terms of this Agreement, the Use Rights and the Product Terms. Microsoft reserves all rights not expressly granted in this Agreement.
- b. **Duration of Licenses.** Subscription Licenses and most Software Assurance rights are temporary and expire when the applicable Enrollment is terminated or expires, unless the Enrolled Affiliate exercises a buy-out option, which is available for some Subscription Licenses. Except as otherwise noted in the applicable Enrollment or Use Rights, all other Licenses become perpetual only when all payments for that License have been made and the initial Enrollment term has expired.
- c. **Applicable Use Rights.**
- (i) **Products (other than Online Services).** The Use Rights in effect on the effective date of the applicable Enrollment term will apply to Enterprise's use of the version of each Product that is current at the time. For future versions and new Products, the Use Rights in effect when those versions and Products are first released will apply. Changes Microsoft makes to the Use Rights for a particular version will not apply unless the Enrolled Affiliate chooses to have those changes apply. The Use Rights applicable to perpetual Licenses that were acquired under a previous agreement or Enrollment are determined by the Agreement or Enrollment under which they were acquired. Renewal of Software Assurance does not change which Use Rights apply to those Licenses.
- (ii) **Online Services.** For Online Services, the Use Rights in effect on the subscription start date will apply for the subscription term as defined in the Product Terms.
- d. **Downgrade rights.** Enrolled Affiliate may use an earlier version of a Product other than Online Services than the version that is current on the effective date of the Enrollment. For Licenses acquired in the current Enrollment term, the Use Rights for the current version apply to the use of the earlier version. If the earlier Product version includes features that are not in the new version, then the Use Rights applicable to the earlier version apply with respect to those features.
- e. **New Version Rights under Software Assurance.** Enrolled Affiliate must order and maintain continuous Software Assurance coverage for each License ordered. With Software Assurance coverage, Enterprise automatically has the right to use a new version of a licensed Product as soon as it is released, even if Enrolled Affiliate chooses not to use the new version immediately.
- (i) Except as otherwise permitted under an Enrollment, use of the new version will be subject to the new version's Use Rights.
- (ii) If the License for the earlier version of the Product is perpetual at the time the new version is released, the License for the new version will also be perpetual. Perpetual Licenses obtained through Software Assurance replace any perpetual Licenses for the earlier version.
- f. **License confirmation.** This Agreement, the applicable Enrollment, Enrolled Affiliate's order confirmation, and any documentation evidencing transfers of perpetual Licenses, together with proof of payment, will be Enrolled Affiliate's evidence of all Licenses obtained under an Enrollment.

- g. **Reorganizations, consolidations and privatizations.** If the number of Licenses covered by an Enrollment changes by more than ten percent as a result of (1) a reorganization, consolidation or privatization of an entity or an operating division, (2) a privatization of an Affiliate or an operating division of Enrolled Affiliate or any of its Affiliates, or (3) a consolidation including a merger with a third party that has an existing agreement or Enrollment, Microsoft will work with Enrolled Affiliate in good faith to determine how to accommodate its changed circumstances in the context of this Agreement.

4. Making copies of Products and re-imaging rights.

- a. **General.** Enrolled Affiliate may make as many copies of Products, as it needs to distribute them within the Enterprise. Copies must be true and complete (including copyright and trademark notices) from master copies obtained from a Microsoft approved fulfillment source. Enrolled Affiliate may use a third party to make these copies, but Enrolled Affiliate agrees it will be responsible for any third party's actions. Enrolled Affiliate agrees to make reasonable efforts to notify its employees, agents, and any other individuals who use the Products that the Products are licensed from Microsoft and subject to the terms of this Agreement.
- b. **Copies for training/evaluation and back-up.** For all Products other than Online Services, Enrolled Affiliate may: (1) use up to 20 complimentary copies of any licensed Product in a dedicated training facility on its premises for purposes of training on that particular Product, (2) use up to 10 complimentary copies of any Products for a 60-day evaluation period, and (3) use one complimentary copy of any licensed Product for back-up or archival purposes for each of its distinct geographic locations. Trials for Online Services may be available if specified in the Use Rights.
- c. **Right to re-image.** In certain cases, re-imaging is permitted using the Product media. If the Microsoft Product is licensed (1) from an original equipment manufacturer (OEM), (2) as a full packaged Product through a retail source, or (3) under another Microsoft program, then media provided under this Agreement may generally be used to create images for use in place of copies provided through that separate source. This right is conditional upon the following:
- (i) Separate Licenses must be acquired from the separate source for each Product that is re-imaged.
 - (ii) The Product, language, version, and components of the copies made must be identical to the Product, language, version, and all components of the copies they replace and the number of copies or instances of the re-imaged Product permitted remains the same.
 - (iii) Except for copies of an operating system and copies of Products licensed under another Microsoft program, the Product type (e.g., Upgrade or full License) re-imaged must be identical to the Product type licensed from the separate source.
 - (iv) Enrolled Affiliate must adhere to any Product-specific processes or requirements for re-imaging identified in the Product Terms.

Re-imaged Products remain subject to the terms and use rights of the License acquired from the separate source. This subsection does not create or extend any Microsoft warranty or support obligation.

5. Transferring and reassigning Licenses.

- a. **License transfers.** License transfers are not permitted, except that Customer or an Enrolled Affiliate may transfer only fully-paid perpetual Licenses to:
- (i) an Affiliate, or
 - (ii) a third party solely in connection with the transfer of hardware or employees to whom the Licenses have been assigned as part of (A) a privatization of an Affiliate or agency or of an

operating division of Enrolled Affiliate or an Affiliate. (B) a reorganization, or (C) a consolidation.

Upon such transfer, Customer or Enrolled Affiliate must uninstall and discontinue using the licensed Product and render any copies unusable.

- b. **Notification of License Transfer.** Enrolled Affiliate must notify Microsoft of a License transfer by completing a license transfer form, which can be obtained from <http://www.microsoft.com/licensing/contracts> and sending the completed form to Microsoft before the License transfer. No License transfer will be valid unless Enrolled Affiliate provides to the transferee, and the transferee accepts in writing, documents sufficient to enable the transferee to ascertain the scope, purpose and limitations of the rights granted by Microsoft under the licenses being transferred (including the applicable Use Rights, use and transfer restrictions, warranties and limitations of liability). Any License transfer not made in compliance with this section will be void.
- c. **Internal Assignment of Licenses and Software Assurance.** Licenses and Software Assurance must be assigned to a single user or device within the Enterprise. Licenses and Software Assurance may be reassigned within the Enterprise as described in the Use Rights.

6. **Term and termination.**

- a. **Term.** The term of this Agreement will be 36 full calendar months from the effective date unless terminated by either party as described below. Each Enrollment will have the term provided in that Enrollment.
- b. **Termination without cause.** Either party may terminate this Agreement, without cause, upon 60 days' written notice. In the event of termination, new Enrollments will not be accepted, but any existing Enrollment will continue for the term of such Enrollment and will continue to be governed by this Agreement.
- c. **Mid-term termination for non-appropriation of Funds.** Enrolled Affiliate may terminate this Agreement or an Enrollment without liability, penalty or further obligation to make payments if funds to make payments under the Agreement or Enrollment are not appropriated or allocated by the Enrolled Affiliate for such purpose.
- d. **Termination for cause.** Without limiting any other remedies it may have, either party may terminate an Enrollment if the other party materially breaches its obligations under this Agreement, including any obligation to submit orders or pay invoices. Except where the breach is by its nature not curable within 30 days, the terminating party must give the other party 30 days' notice of its intent to terminate and an opportunity to cure the breach.

If Microsoft gives such notice to an Enrolled Affiliate, Microsoft also will give Customer a copy of that notice and Customer agrees to help resolve the breach. If the breach affects other Enrollments and cannot be resolved between Microsoft and Enrolled Affiliate, together with Customer's help, within a reasonable period of time, Microsoft may terminate this Agreement and all Enrollments under it. If an Enrolled Affiliate ceases to be Customer's Affiliate, it must promptly notify Microsoft, and Microsoft may terminate the former Affiliate's Enrollment. If an Enrolled Affiliate terminates its Enrollment as a result of a breach by Microsoft, or if Microsoft terminates an Enrollment because Enrolled Affiliate ceases to be Customer's Affiliate, then Enrolled Affiliate will have the early termination rights described in the Enrollment.

- e. **Early termination.** If (1) an Enrolled Affiliate terminates its Enrollment as a result of a breach by Microsoft, or (2) if Microsoft terminates an Enrollment because the Enrolled Affiliate has ceased to be an Affiliate of Customer, or (3) Enrolled Affiliate terminates an Enrollment for non-appropriation of funds, or (4) Microsoft terminates an Enrollment for non-payment due to non-appropriation of funds, then the Enrolled Affiliate will have the following options:
 - (i) It may immediately pay the total remaining amount due, including all installments, in which case, the Enrolled Affiliate will have perpetual rights for all Licenses it has ordered; or

(ii) It may pay only amounts due as of the termination date, in which case the Enrolled Affiliate will have perpetual Licenses for:

- 1) all copies of Products (including the latest version of Products ordered under SA coverage in the current term) for which payment has been made in full, and
- 2) the number of copies of Products it has ordered (including the latest version of Products ordered under Software Assurance coverage in current term) that is proportional to the total of installment payments paid versus total amounts due (paid and payable) if the early termination had not occurred.

(iii) In the case of early termination under subscription Enrollments, Enrolled Affiliate will have the following options:

- 1) For eligible Products, Enrolled Affiliate may obtain perpetual Licenses as described in the section of the Enrollment titled "Buy-out option," provided that Microsoft receives the buy-out order for those Licenses within 60 days after Enrolled Affiliate provides notice of termination.
- 2) In the event of a breach by Microsoft, if Customer chooses not to exercise a buy-out option, Microsoft will issue Enrolled Affiliate a credit for any amount paid in advance for Subscription Licenses that the Enterprise will not be able to use to do the termination of the Enrollment.

Nothing in this section shall affect perpetual License rights acquired either in a separate agreement or in a prior term of the terminated Enrollment.

f. **Effect of termination or expiration.** When an Enrollment expires or is terminated,

(i) Enrolled Affiliate must order Licenses for all copies of Products it has run for which it has not previously submitted an order. Any and all unpaid payments for any order of any kind remain due and payable. Except as provided in the subsection titled "Early termination," all unpaid payments for Licenses immediately become due and payable.

(ii) Enrolled Affiliate's right to Software Assurance benefits under this Agreement ends if it does not renew Software Assurance.

g. **Modification or termination of an Online Service for regulatory reasons.** Microsoft may modify or terminate an Online Service where there is any current or future government requirement or obligation that: (1) subjects Microsoft to any regulation or requirement not generally applicable to businesses operating in the jurisdiction; (2) presents a hardship for Microsoft to continue operating the Online Service without modification; and/or (3) causes Microsoft to believe these terms or the Online Service may conflict with any such requirement or obligation.

h. **Program updates.** Microsoft may make changes to this program that will make it necessary for Customer and its Enrolled Affiliates to enter into new agreements and Enrollments at the time of an Enrollment renewal.

7. Use, ownership, rights, and restrictions.

a. **Products.** Unless otherwise specified in a supplemental agreement, use of any Product is governed by the Use Rights specific to each Product and version and by the terms of the applicable supplemental agreement.

b. **Fixes.** Each Fix is licensed under the same terms as the Product to which it applies. If a Fix is not provided for a specific Product, any use rights Microsoft provides with the Fix will apply.

c. **Non-Microsoft software and technology.** Enrolled Affiliate is solely responsible for any non-Microsoft software or technology that it installs or uses with the Products or Fixes.

- d. **Restrictions.** Enrolled Affiliate must not (and is not licensed to) (1) reverse engineer, decompile, or disassemble any Product or Fix; (2) install or use non-Microsoft software or technology in any way that would subject Microsoft's intellectual property or technology to any other license terms; or (3) work around any technical limitations in a Product or Fix or restrictions in Product documentation. Customer must not (and is not licensed to) (i) separate and run parts of a Product or Fix on more than one device, upgrade or downgrade parts of a Product or Fix at different times, or transfer parts of a Product or Fix separately; or (ii) distribute, sublicense, rent, lease, lend any Products or Fixes, in whole or in part, or use them to offer hosting services to a third party.
- e. **Reservation of rights.** Products and Fixes are protected by copyright and other intellectual property rights laws and international treaties. Microsoft reserves all rights not expressly granted in this agreement. No rights will be granted or implied by waiver or estoppel. Rights to access or use Software on a device do not give Customer any right to implement Microsoft patents or other Microsoft intellectual property in the device itself or in any other software or devices.

8. Confidentiality.

"Confidential Information" is non-public information that is designated "confidential" or that a reasonable person should understand is confidential, including Customer Data. Confidential Information does not include information that (a) becomes publicly available without a breach of this agreement, (b) the receiving party received lawfully from another source without a confidentiality obligation, (c) is independently developed, or (d) is a comment or suggestion volunteered about the other party's business, products or services.

Each party will take reasonable steps to protect the other's Confidential Information and will use the other party's Confidential Information only for purposes of the parties' business relationship. Neither party will disclose that Confidential Information to third parties, except to its employees, Affiliates, contractors, advisors and consultants ("Representatives") and then only on a need-to-know basis under nondisclosure obligations at least as protective as this agreement. Each party remains responsible for the use of the Confidential Information by its Representatives and, in the event of discovery of any unauthorized use or disclosure, must promptly notify the other party.

A party may disclose the other's Confidential Information if required by law, but only after it notifies the other party (if legally permissible) to enable the other party to seek a protective order.

Neither party is required to restrict work assignments of its Representatives who have had access to Confidential Information. Each party agrees that the use of information retained in Representatives' unaided memories in the development or deployment of the parties' respective products or services does not create liability under this Agreement or trade secret law, and each party agrees to limit what it discloses to the other accordingly.

These obligations apply (i) for Customer Data until it is deleted from the Online Services, and (ii) for all other Confidential Information, for a period of five years after a party receives the Confidential Information.

9. Privacy and compliance with laws.

- a. Enrolled Affiliate consents to the processing of personal information by Microsoft and its agents to facilitate the subject matter of this Agreement. Enrolled Affiliate will obtain all required consents from third parties under applicable privacy and data protection law before providing personal information to Microsoft.
- b. Personal information collected under this agreement (i) may be transferred, stored and processed in the United States or any other country in which Microsoft or its service providers maintain facilities and (ii) will be subject to the privacy terms specified in the Use Rights. Microsoft will abide by the requirements of European Economic Area and Swiss data protection

law regarding the collection, use, transfer, retention, and other processing of personal data from the European Economic Area and Switzerland.

- c. **U.S. export.** Products and Fixes are subject to U.S. export jurisdiction. Enrolled Affiliate must comply with all applicable international and national laws, including the U.S. Export Administration Regulations and International Traffic in Arms Regulations, and end-user, end use and destination restrictions issued by U.S. and other governments related to Microsoft products, services and technologies.

10. Warranties.

a. Limited warranties and remedies.

- (i) **Software.** Microsoft warrants that each version of the Software will perform substantially as described in the applicable Product documentation for one year from the date the Enterprise is first licensed for that version. If it does not and the Enterprise notifies Microsoft within the warranty term, then Microsoft will, at its option (1) return the price Enrolled Affiliate paid for the Software license, or (2) repair or replace the Software.
- (ii) **Online Services.** Microsoft warrants that each Online Service will perform in accordance with the applicable SLA during the Enterprise's use. The Enterprise's remedies for breach of this warranty are in the SLA.

The remedies above are the Enterprise's sole remedies for breach of the warranties in this section. Customer waives any breach of warranty claims not made during the warranty period.

- b. **Exclusions.** The warranties in this agreement do not apply to problems caused by accident, abuse, or use in a manner inconsistent with this Agreement, including failure to meet minimum system requirements. These warranties do not apply to free, trial, pre-release, or beta products, or to components of Products that Enrolled Affiliate is permitted to redistribute.
- c. **Disclaimer.** Except for the limited warranties above, Microsoft provides no other warranties or conditions and disclaims any other express, implied, or statutory warranties, including warranties of quality, title, non-infringement, merchantability, and fitness for a particular purpose.

11. Defense of third party claims.

The parties will defend each other against the third-party claims described in this section and will pay the amount of any resulting adverse final judgment or approved settlement, but only if the defending party is promptly notified in writing of the claim and has the right to control the defense and any settlement of it. The party being defended must provide the defending party with all requested assistance, information, and authority. The defending party will reimburse the other party for reasonable out-of-pocket expenses it incurs in providing assistance. This section describes the parties' sole remedies and entire liability for such claims.

- a. **By Microsoft.** Microsoft will defend Enrolled Affiliate against any third-party claim to the extent it alleges that a Product or Fix made available by Microsoft for a fee and used within the scope of the license granted (unmodified from the form provided by Microsoft and not combined with anything else) misappropriates a trade secret or directly infringes a patent, copyright, trademark or other proprietary right of a third party. If Microsoft is unable to resolve a claim of infringement under commercially reasonable terms, it may, at its option, either (1) modify or replace the Product or Fix with a functional equivalent; or (2) terminate Enrolled Affiliate's license and refund any prepaid license fees (less depreciation on a five-year, straight-line basis) for perpetual licenses and any amount paid for Online Services for any usage period after the termination date. Microsoft will not be liable for any claims or damages due to Enrolled Affiliate's continued use of a Product or Fix after being notified to stop due to a third-party claim.
- b. **By Enrolled Affiliate.** To the extent permitted by applicable law, Enrolled Affiliate will defend Microsoft against any third-party claim to the extent it alleges that: (1) any Customer Data or

non-Microsoft software hosted in an Online Service by Microsoft on Enrolled Affiliate's behalf misappropriates a trade secret or directly infringes a patent, copyright, trademark, or other proprietary right of a third party; or (2) Enrolled Affiliate's use of any Product or Fix, alone or in combination with anything else, violates the law or damages a third party.

12. Limitation of liability.

For each Product, each party's maximum, aggregate liability to the other under this Agreement is limited to direct damages finally awarded in an amount not to exceed the amounts Enrolled Affiliate was required to pay for the applicable Products during the term of this Agreement, subject to the following:

- a. **Online Services.** For Online Services, Microsoft's maximum liability to Enrolled Affiliate for any incident giving rise to a claim will not exceed the amount Enrolled Affiliate paid for the Online Service during the 12 months before the incident.
- b. **Free Products and Distributable Code.** For Products provided free of charge and code that Enrolled Affiliate is authorized to redistribute to third parties without separate payment to Microsoft, Microsoft's liability is limited to direct damages finally awarded up to US\$5,000.
- c. **Exclusions.** In no event will either party be liable for indirect, incidental, special, punitive, or consequential damages, or for loss of use, loss of business information, loss of revenue, or interruption of business, however caused or on any theory of liability.
- d. **Exceptions.** No limitation or exclusions will apply to liability arising out of either party's (1) confidentiality obligations (except for all liability related to Customer Data, which will remain subject to the limitations and exclusions above); (2) defense obligations; or (3) violation of the other party's intellectual property rights.

13. Verifying compliance.

- a. **Right to verify compliance.** Enrolled Affiliate must keep records relating to all use and distribution of Products by Enrolled Affiliate and its Affiliates. Microsoft has the right, at its expense, to the extent permitted by applicable law, to verify compliance with the Product's license terms. Enrolled Affiliate must promptly provide the independent auditor with any information the auditor reasonably requests in furtherance of the verification, including access to systems running the Products and evidence of Licenses for Products Enrolled Affiliate hosts, sublicenses, or distributes to third parties. Enrolled Affiliate agrees to complete Microsoft's self-audit process, which Microsoft may require as an alternative to a third party audit.
- b. **Remedies for non-compliance.** If verification or self-audit reveals any unlicensed use or distribution, then within 30 days, (1) Enrolled Affiliate must order sufficient Licenses to cover that use or distribution, and (2) if unlicensed use or distribution is 5% or more, Enrolled Affiliate must reimburse Microsoft for the cost Microsoft has incurred in verification and acquire the necessary additional licenses at 125% of the price based on the then-current price list and Enrolled Affiliate price level. The unlicensed use percentage is based on the total number of licenses purchased compared to actual install base. If there is no unlicensed use, Microsoft will not subject Enrolled Affiliate to another verification for at least one year. By exercising the rights and procedures described above, Microsoft does not waive its rights to enforce this Agreement or to protect its intellectual property by any other means permitted by law.
- c. **Verification process.** Microsoft will notify Enrolled Affiliate at least 30 days in advance of its intent to verify Enrolled Affiliate's compliance with the license terms for the Products Enrolled Affiliate and its Affiliates use or distribute. Microsoft will engage an independent auditor, which will be subject to a confidentiality obligation. Any information collected in the self-audit will be used solely for purposes of determining compliance. This verification will take place during normal business hours and in a manner that does not interfere unreasonably with Enrolled Affiliate's operations.

14. **Miscellaneous.**

- a. **Use of contractors.** Microsoft may use contractors to perform services, but will be responsible for their performance subject to the terms of this Agreement.
- b. **Microsoft as independent contractor.** The parties are independent contractors. Enrolled Affiliate and Microsoft each may develop products independently without using the other's Confidential Information.
- c. **Notices.** Notices to Microsoft must be sent to the address on the signature form. Notices must be in writing and will be treated as delivered on the date shown on the return receipt or on the courier or fax confirmation of delivery. Microsoft may provide information to Enrolled Affiliate about upcoming ordering deadlines, services, and subscription information in electronic form, including by email to contacts provided by Enrolled Affiliate. Emails will be treated as delivered on the transmission date.
- d. **Agreement not exclusive.** Customer is free to enter into agreements to license, use or promote non-Microsoft products.
- e. **Amendments.** Any amendment to this Agreement must be executed by both parties, except that Microsoft may change the Product Terms and the Use Rights from time to time in accordance with the terms of this Agreement. Any conflicting terms and conditions contained in an Enrolled Affiliate's purchase order will not apply. Microsoft may require Customer to sign a new agreement or an amendment before an Enrolled Affiliate enters into an Enrollment under this agreement.
- f. **Assignment.** Either party may assign this Agreement to an Affiliate, but must notify the other party in writing of the assignment. Any other proposed assignment must be approved by the non-assigning party in writing. Assignment will not relieve the assigning party of its obligations under the assigned agreement. Any attempted assignment without required approval will be void.
- g. **Applicable law; dispute resolution.** The terms of this Agreement will be governed by the laws of Customer's state, without giving effect to its conflict of laws. Disputes relating to this Agreement will be subject to applicable dispute resolution laws of Customer's state.
- h. **Severability.** If any provision in this agreement is held to be unenforceable, the balance of the agreement will remain in full force and effect.
- i. **Waiver.** Failure to enforce any provision of this agreement will not constitute a waiver. Any waiver must be in writing and signed by the waiving party.
- j. **No third-party beneficiaries.** This Agreement does not create any third-party beneficiary rights.
- k. **Survival.** All provisions survive termination or expiration of this Agreement except those requiring performance only during the term of the Agreement.
- l. **Management and Reporting.** Customer and/or Enrolled Affiliate may manage account details (e.g., contacts, orders, Licenses, software downloads) on Microsoft's Volume Licensing Service Center ("VLSC") web site (or successor site) at: <https://www.microsoft.com/licensing/servicecenter>. Upon the effective date of this Agreement and any Enrollments, the contact(s) identified for this purpose will be provided access to this site and may authorize additional users and contacts.
- m. **Order of precedence.** In the case of a conflict between any documents in this Agreement that is not expressly resolved in those documents, their terms will control in the following order from highest to lowest priority: (1) this Enterprise Agreement, (2) any Enrollment, (3) the Product Terms, (4) the Online Services Terms, (5) orders submitted under this Agreement, and (6) any other documents in this Agreement. Terms in an amendment control over the amended document and any prior amendments concerning the same subject matter.

- n. **Free Products.** It is Microsoft's intent that the terms of this Agreement and the Use Rights be in compliance with all applicable federal law and regulations. Any free Product provided to Enrolled Affiliate is for the sole use and benefit of the Enrolled Affiliate, and is not provided for use by or personal benefit of any specific government employee.
- o. **Voluntary Product Accessibility Templates.** Microsoft supports the government's obligation to provide accessible technologies to its citizens with disabilities as required by Section 508 of the Rehabilitation Act of 1973, and its state law counterparts. The Voluntary Product Accessibility Templates ("VPATs") for the Microsoft technologies used in providing the Online Services can be found at Microsoft's VPAT page. Further information regarding Microsoft's commitment to accessibility can be found at <http://www.microsoft.com/enable>.
- p. **Natural disaster.** In the event of a "natural disaster," Microsoft may provide additional assistance or rights by posting them on <http://www.microsoft.com> at such time.
- q. **Copyright violation.** Except as set forth in the section above entitled "Transferring and reassigning Licenses", the Enrolled Affiliate agrees to pay for, and comply with the terms of this Agreement and the Use Rights, for the Products it uses. Except to the extent Enrolled Affiliate is licensed under this Agreement, it will be responsible for its breach of this contract and violation of Microsoft's copyright in the Products, including payment of License fees specified in this Agreement for unlicensed use.

Supplemental Contact Information Form

This form can be used in combination with MBSA, Agreement, and Enrollment/Registration. However, a separate form must be submitted for each enrollment/registration, when more than one is submitted on a signature form. For the purposes of this form, "entity" can mean the signing entity, Customer, Enrolled Affiliate, Government Partner, Institution, or other party entering into a volume licensing program agreement. Primary and Notices contacts in this form will not apply to enrollments or registrations.

This form applies to:

- ☐ MBSA
☒ Agreement
☐ Enrollment/Affiliate Registration Form

Insert primary entity name if more than one Enrollment/Registration Form is submitted

Contact information.

Each party will notify the other in writing if any of the information in the following contact information page(s) changes. The asterisks (*) indicate required fields; if the entity chooses to designate other contact types, the same required fields must be completed for each section. By providing contact information, entity consents to its use for purposes of administering the Enrollment by Microsoft and other parties that help Microsoft administer this Enrollment. The personal information provided in connection with this agreement will be used and protected according to the privacy statement available at <https://licensing.microsoft.com>.

1. Additional notices contact.

This contact receives all notices that are sent from Microsoft. No online access is granted to this individual.

Name of entity* County of Riverside
 Contact name*: First Regina Last Funderburk
 Contact email address* RFunderburk@rivco.org
 Street address* 3450 14th Street, 4th Floor
 City* Riverside State/Province* California Postal code* 92501-3861
 Country* USA
 Phone* 951-955-2265 Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

2. Software Assurance manager.

This contact will receive online permissions to manage the Software Assurance benefits under the Enrollment or Registration.

Name of entity* County of Riverside
 Contact name*: First Regina Last Funderburk
 Contact email address* RFunderburk@rivco.org
 Street address* 3450 14th Street, 4th Floor
 City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-2265 Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

3. *Subscriptions manager.*

This contact will assign MSDN, Expression, and TechNet Plus subscription licenses to the individual subscribers under this Enrollment or Registration. Assignment of the subscription licenses is necessary for access to any of the online benefits, such as subscription downloads. This contact will also manage any complimentary or additional media purchases related to these subscriptions.

Name of entity* County of Riverside

Contact name*: First Regina Last Funderburk

Contact email address* RFunderburk@rivco.org

Street address* 3450 14th Street, 4th Floor

City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-2265 Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

4. *Online services manager.*

This contact will be provided online permissions to manage the online services ordered under the Enrollment or Registration.

Name of entity* County of Riverside

Contact name*: First Luis Last Flores

Contact email address* LFFlores@rivco.org

Street address* 3450 14th Street, 4th Floor

City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-8114 Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

5. *Customer Support Manager (CSM).*

This person is designated as the Customer Support Manager (CSM) for support-related activities.

Name of entity* County of Riverside

Contact name*: First Luis Last Flores

Contact email address* LFFlores@rivco.org

Street address* 3450 14th Street, 4th Floor

City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-8114 Fax

6. *Primary contact information.*

An individual from inside the organization must serve as the primary contact. This contact receives online administrator permissions and may grant online access to others. This contact also receives all notices unless Microsoft is provided written notice of a change.

Name of entity* County of Riverside

Contact name*: First Jim Last Smith
Contact email address* jimsmith@rivco.org
Street address* 3450 14th Street, 4th Floor
City* Riverside State/Province* CA Postal code* 92501-3861
Country* US
Phone* 951-231-5909 Fax

7. Notices contact and online administrator information.

This individual receives online administrator permissions and may grant online access to others. This contact also receives all notices.

☒ Same as primary contact

Name of entity*

Contact name*: First Last

Contact email address*

Street address*

City* State/Province* Postal code*

Country*

Phone* Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

Microsoft Document Headersheet

** This is for informational purposes only **

MSE#:

(MSLI
Tracking
Number)

5-0000004275258

Doc Type:

Amendments

Do not modify the formatting or spacing of this Form above this text

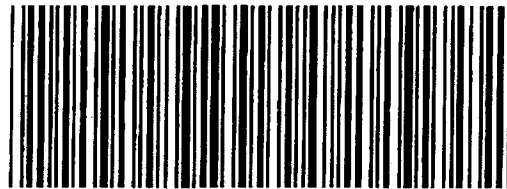
Subsidiary:

Country: **United States**

Account Manager Name / Alias:

LAR/LAD/ESA:

Insight Direct USA, Inc.



Program/Version

EA 6 2016

(Scanning Code)

ACCOUNT: County of Riverside

3

Outsourcer Name:

Business Agreement Number:

Master Agreement Number: **8084445**

Agreement Number:

Purchase Order Number:

Comments:

8/23/2019 9:42:40 PM



Amendment to Contract Documents

Agreement Number:

808445

004-kayleed-S-04

This amendment ("Amendment") is entered into between the parties identified on the attached program signature form. It amends the Enrollment or Agreement identified above. All terms used but not defined in this Amendment will have the same meanings provided in that Enrollment or Agreement.

Enterprise Agreement
Custom Terms CTM

1. Section 6a, "Term", is hereby amended and restated as follows:
 - a. **Term.** The term of this Agreement will remain in effect unless terminated by either party as described below. Each Enrollment will have the term provided in that Enrollment.
2. The pricing that Microsoft will offer Enrolled Affiliate's Reseller for Enrollments effective between November 1, 2019 through October 31, 2021, and that will apply for the entire initial term of such Enrollments, is as follows:

Product	Price Level	Examples include but are not limited to the following*:
Enterprise Online Services** (including Full USLs, from SA USLs, Add-ons and Step Ups)	Level D minus 2%	M365 E3 and E5, Enterprise Mobility + Security E3 and E5, Office 365 Enterprise E1 or E3, Windows 10 Enterprise E3 or E5
Enterprise Products	Level D	Office 365 Pro Plus, Windows 10 Enterprise, Core CAL Suite, Enterprise CAL Suite
Additional Products	Level D	M365 F1, M365 E5 Compliance, M365 E5 Security, Office 365 Enterprise F1, Project Online, Visio Online Plan 1 or Plan 2, Dynamics 365, Azure, SQL Server, Windows Server, etc.
Server and Tools Product (applies to Server and Cloud Enrollments only)	Level D	SharePoint Server, SQL Server, BizTalk Server, Visual Studio, Core Infrastructure Suites, etc.

*The examples include online services that are available in either the commercial or government cloud offerings.

**Qualifying Enterprise Online Services are identified in the Product Terms with the cell value of "EO" in the tables for "Program Availability". The scope of Enterprise Online Services is subject to change as Enterprise Online Services are added, updated/revised or removed from the Enterprise program offering.

Exclusions apply to the additional 2% discount on Enterprise Online Services as follows:

- The price list month that applies to an order is not a factor in determining whether the additional 2% discount on Enterprise Online Services may be applied to an order. The only applicable factor is the effective date of the Enrollment.
- The discount does not apply to any extensions of the initial Term or renewal Enrollments.
- The discount does not apply to any promotional SKUs. Enrolled Affiliate is entitled to the lower of the promotional price or discounted price.

The price level that applies to Enrollments effective on or after November 1, 2021 is Level D for all Products.

The Reseller and the Enrolled Affiliate will determine the Enrolled Affiliate's actual price and payment terms.

Except for changes made by this Amendment, the Enrollment or Agreement identified above remains unchanged and in full force and effect. If there is any conflict between any provision in this Amendment and any provision in the Enrollment or Agreement identified above, this Amendment shall control.

This Amendment must be attached to a signature form to be valid.

Microsoft Internal Use Only:

Riverside County EA Amend 8.7.docx	CTM	CTM-CPT-OPT-FWK	BD
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Licensing Solution Provider Agreement Number PSA-0001529

This Licensing Solution Provider Agreement is made and entered into this 22nd day of October 2019, by and between Softchoice Corporation, a New York Corporation ("CONTRACTOR"), and the COUNTY OF RIVERSIDE, a political subdivision of the State of California, ("COUNTY").

WHEREAS, COUNTY and Microsoft Corporation ("Microsoft") have entered into that certain Microsoft Enterprise Agreement (Master Agreement No. 8084445; the "Master Agreement"), effective August 23, 2019, under which COUNTY has the ability to enter into one or more enrollments to order certain Microsoft product licenses;

WHEREAS, CONTRACTOR desires to provide support to COUNTY and its Enrolled Affiliates (as defined in the Master Agreement) for said licenses under this Agreement and hereby represents that it has the skills, experience, and knowledge necessary to perform under this Agreement; and

WHEREAS, COUNTY desires to accept CONTRACTOR's services under this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

1. This Agreement covers all enrollments for all products licensed under the Master Agreement. All terms and conditions of the Master Agreement, attached as Exhibit E of this Agreement and incorporated by reference, shall apply to the purchase of related products and services.
2. This Agreement is available for use by all government entities within the State of California (an "Enrolled Affiliate") for the duration of the Term (defined below in section 4). Enrollment documents will contain the terms and conditions specific to each entity.
3. CONTRACTOR agrees to extend the same pricing, terms, and conditions as stated in this agreement to each and every government entity in the State of California. Terms and conditions are governed by this Agreement, the Master Agreement, and the applicable enrollment documents for each entity. Entities shall make purchases in their own name, make direct payment to CONTRACTOR, and be liable directly to CONTRACTOR for all obligations.
 - 3.1 COUNTY shall in no way be responsible to CONTRACTOR for Enrolled Affiliates' purchases and obligations. COUNTY shall in no way be responsible to other entities for their purchases or any acts or omissions of CONTRACTOR, including but not limited to product selection or implementation, services or other related matters.
 - 3.2 CONTRACTOR shall notify Enrolled Affiliate in writing of the terms and conditions stated in Section 11.
4. This Agreement shall be effective from November 1, 2019 through October 31, 2021, unless terminated earlier (the "Term").
5. Hold Harmless/Indemnification:
 - 5.1 CONTRACTOR shall indemnify and hold harmless the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as Indemnitees) from any liability, action, claim or damage whatsoever, based or asserted upon any services, or acts or omissions, of CONTRACTOR, its

Licensing Solution Provider Agreement Number PSA-0001529

officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature. CONTRACTOR shall defend the Indemnitees at its sole expense including all costs and fees (including, but not limited, to attorney fees, cost of investigation, defense and settlements or awards) in any claim or action based upon such acts, omissions or services.

- 5.2 With respect to any action or claim subject to indemnification herein by CONTRACTOR, CONTRACTOR shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of COUNTY; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes CONTRACTOR indemnification to Indemnitees as set forth herein.
- 5.3 CONTRACTOR'S obligation hereunder shall be satisfied when CONTRACTOR has provided to COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action or claim involved.
6. Contractor Responsibilities: CONTRACTOR will offer the following services to each Enrolled Affiliate at no additional charge. It is the responsibility of the Enrolled Affiliate to determine which products and/or services, if any, meet their needs and communicate that to the CONTRACTOR.
 - 6.1 Provide reports showing year to date annual spend according to Enrolled Affiliate's specifications. Frequency will be determined by each Enrolled Affiliate (monthly, quarterly, etc.).
 - 6.2 Provide a short synopsis of why an amendment is needed and the ramification of each amendment to an enrollment at the time of such amendment.
 - 6.3 Provide an updated price list on an annual basis or when requested by Enrolled Affiliate.
7. CONTRACTOR's Microsoft Enterprise Agreement license subscription price attached hereto as Exhibit A and service rates attached hereto as Exhibit B.
8. CONTRACTOR's Microsoft Enterprise Agreement Participation Form attached hereto as Exhibit C and incorporated herein by reference.
9. Usage Reporting: CONTRACTOR will provide to COUNTY the Licensed Support Provider (LSP) Reporting of Active Enrollments to Master Microsoft Enterprise Agreement No. 8084445, Select Plus Agreement No. 7756479, Microsoft Premier, Unified, and MCS Support services, showing a list of enrollments by February 15th of each year. Forms shall be submitted electronically to MasterMicrosoftAdmin@rivco.org. A copy of the form is attached hereto as Exhibit D and incorporated herein by reference.
10. Administrative fees: CONTRACTOR will be charged .5% of the annual enrollment amount to leverage the Riverside County Master Microsoft Agreement No. 8084445, Select Plus Agreement No. 7756479, Microsoft Premier, Unified, and MCS Support services. This will be an annual fee, per enrollment inclusive of Affiliates Shadow Enrollments. Example: A three-year aggregated agreement with a contract amount of \$300K, divisible by three years will result in an LSP Participation Fee of \$500 annually (100K*.5%). RCIT will invoice the Awarded LSP annually based on the enrollments verified from the

Licensing Solution Provider Agreement Number PSA-0001529

"Reporting of Active Enrollments" list submitted by December 15th of each year. Payment is due to Riverside County Information Technology thirty (30) days from invoice date.

10.1 Riverside County Information Technology (RCIT) will invoice the CONTRACTOR annually based on the enrollments verified. Payment is due to RCIT within thirty (30) days of invoice date. The COUNTY will not accept credit as a form of payment.

10.2 Failure to meet the administrative fee requirements herein and submit fees on a timely basis may constitute grounds for immediate termination of this Agreement.

11. Contract Management: The contacts for this Agreement for COUNTY shall be both RCIT and Purchasing as listed below.

COUNTY Primary Contact:
Jim Smith
3450 14th Street
Riverside, CA 92501

COUNTY Secondary Contact:
Rick Hai
2980 Washington Street
Riverside, CA 92504

CONTRACTOR contact:
Dave Tomke
314 W. Superior St., Suite 300
Chicago, IL 60654

11.1 Should Contract Management contact information change, the CONTRACTOR shall provide written notice with the updated information to the COUNTY no later than 10 business days after the change.

12. Termination:

12.1 COUNTY may terminate this Agreement without cause upon thirty (30) days written notice served upon the CONTRACTOR stating the extent and effective date of termination.

12.2 COUNTY may, upon five (5) days written notice terminate this Agreement for CONTRACTOR's default, if CONTRACTOR refuses or fails to comply with the terms of this Agreement or fails to make progress that may endanger performance and does not immediately cure such failure. In the event of such termination, the COUNTY may proceed with the work in any manner deemed proper by COUNTY.

12.3 CONTRACTOR's rights under this Agreement shall terminate (except for fees accrued prior to the date of termination) upon dishonesty or a willful or material breach of this Agreement by CONTRACTOR; or in the event of CONTRACTOR's unwillingness or inability for any reason whatsoever to perform the terms of this Agreement.

13. Conduct of Contractor:

13.1 The CONTRACTOR covenants that it presently has no interest, including, but not limited to, other projects or contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with CONTRACTOR's performance under this Agreement. The CONTRACTOR further covenants that no person or subcontractor having any such interest shall be employed or retained by CONTRACTOR under this Agreement. The CONTRACTOR agrees

Licensing Solution Provider Agreement Number PSA-0001529

to inform the COUNTY of all the CONTRACTOR's interests, if any, which are or may be perceived as incompatible with the COUNTY's interests.

- 13.2 The CONTRACTOR shall not, under circumstances which could be interpreted as an attempt to influence the recipient in the conduct of his/her duties, accept any gratuity or special favor from individuals or firms with whom the CONTRACTOR is doing business or proposing to do business, in accomplishing the work under this Agreement.
- 13.3 The CONTRACTOR or its employees shall not offer gifts, gratuity, favors, and entertainment directly or indirectly to COUNTY employees.
- 13.4 CONTRACTOR shall establish adequate procedures for self-monitoring and quality control and assurance to ensure proper performance under this Agreement; and shall permit a COUNTY representative or other regulatory official to monitor, assess, or evaluate CONTRACTOR's performance under this Agreement at any time, upon reasonable notice to the CONTRACTOR.

14. Independent Contractor/Employment Eligibility/Non-Discrimination:

- 14.1 The CONTRACTOR is, for purposes relating to this Agreement, an independent contractor and shall not be deemed an employee of the COUNTY. It is expressly understood and agreed that the CONTRACTOR (including its employees, agents, and subcontractors) shall in no event be entitled to any benefits to which COUNTY employees are entitled, including but not limited to overtime, any retirement benefits, worker's compensation benefits, and injury leave or other leave benefits. There shall be no employer-employee relationship between the parties; and CONTRACTOR shall hold COUNTY harmless from any and all claims that may be made against COUNTY based upon any contention by a third party that an employer-employee relationship exists by reason of this Agreement. It is further understood and agreed by the parties that CONTRACTOR in the performance of this Agreement is subject to the control or direction of COUNTY merely as to the results to be accomplished and not as to the means and methods for accomplishing the results.
- 14.2 CONTRACTOR warrants that it shall make its best effort to fully comply with all federal and state statutes and regulations regarding the employment of aliens and others and to ensure that employees performing work under this Agreement meet the citizenship or alien status requirement set forth in federal statutes and regulations. CONTRACTOR shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by federal or state statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. CONTRACTOR shall retain all such documentation for all covered employees, for the period prescribed by the law.
- 14.3 CONTRACTOR shall not discriminate in the provision of services, allocation of benefits, accommodation in facilities, or employment of personnel on the basis of ethnic group identification, race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex in the performance of this Agreement; and, to the extent they shall be found to be applicable hereto, shall comply with the provisions of the California Fair Employment and Housing Act (Gov. Code 12900 et. seq), the Federal Civil Rights Act of 1964 (P.L. 88-352), the Americans with Disabilities Act of 1990 (42 U.S.C. S1210 et seq.) and all other applicable laws or regulations.

Licensing Solution Provider Agreement Number PSA-0001529

15. Entire Agreement: This Agreement, including any attachments or exhibits, constitutes the entire agreement of the parties with respect to its subject matter and supersedes all prior and contemporaneous representations, proposals, discussions and communications, whether oral or in writing. This Agreement may be changed or modified only by a written amendment signed by authorized representatives of both parties.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute this Agreement.

COUNTY OF RIVERSIDE, a political
subdivision of the State of California

Softchoice Corporation, a New York corporation

By: 
Kevin Jeffries, Chairman
Board of Supervisors

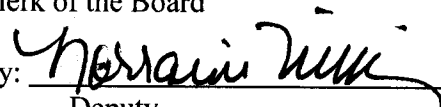
By: 
Vince De Palma
President and Chief Executive Officer

Dated: OCT 22 2019

Dated: OCT 10, 2019

ATTEST:

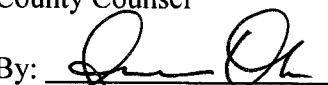
Kecia Harper
Clerk of the Board

By: 
Deputy



APPROVED AS TO FORM:

Gregory P. Priamos
County Counsel

By: 
Susanna Oh, Deputy County Counsel

Licensing Solution Provider Agreement Number PSA-0001529

**Exhibit A
Microsoft Enterprise license subscription and services**

Line	Description	Price Level	Markup %
1	Enterprise Online Services** (including Full USLs, From SA USLs, Add-ons and Step Ups) M365 E3 and E5, Enterprise Mobility + Security E3 and E5, Office 365 Enterprise E1 or E3, Windows 10 Enterprise E3 or E5.	Level D Minus 2%	3.50
2	Enterprise Products Office 365 Pro Plus, Windows 10 Enterprise, Core CAL Suite, Enterprise CAL Suite.	Level D	3.50
3	Additional Products M365 F1, M365 E5 Compliance, M365 E5 Security, Office 365 Enterprise F1, Project Online, Visio Online Plan 1 or Plan 2, Dynamics 365, Azure, SQL Server, Windows Server, etc.	Level D	3.50
4	Server and Tools Product (applies to Server and Cloud Enrollments only) SharePoint Server, SQL Server, BizTalk Server, Visual Studio, Core Infrastructure Suites, etc.	Level D	3.50
5	All products for Select Plus Agreement No.7756479.		2.00
6	Microsoft Premier Support		3.50
7	Microsoft Unified Support Services		3.50
8	Microsoft Consulting Services		3.50

Licensing Solution Provider Agreement Number PSA-0001529

**Exhibit B
License Support Provider (LSP) service rates**

Line	Description	Certified Competency (Yes/No)	Hourly Rate
Data and Artificial Intelligent			
1	Build Intelligent Apps	No	\$0
2	Build Intelligent Agents	No	\$0
3	Machine Learning	No	\$0
4	Internet of Things	No	\$0
5	Globally distributed data	No	\$0
6	OSS Databases	No	\$0
7	Cloud Scale Analytics	No	\$0
8	Data Platform Modernization to Azure	No	\$0
9	Windows Server on Azure	No	\$0
10	Security & Management	No	\$0
11	Datacenter Migration	No	\$0
12	Modern Business Intelligence	No	\$0
Biz Apps			
1	Customer Service	No	\$0
2	Field Service	No	\$0
3	Marketing	No	\$0
4	Talent	No	\$0
5	Finance and Operations	No	\$0
6	Business Central	No	\$0
7	Power Apps	No	\$0
8	Power BI	No	\$0
Apps and Infrastructure			
1	Azure Stack	Yes	\$235
2	High Performance Compute	Yes	\$235
3	Cloud Native Apps using Serverless	Yes	\$235
4	Modernize Apps	Yes	\$235
5	SAP on Azure	No	\$0
6	Linux on Azure	Yes	\$235
7	Dev Ops	Yes	\$235
8	Business Continuity & Disaster Recovery	Yes	\$235
9	Windows Server on Azure	Yes	\$235
10	Security & Management	Yes	\$235
11	Datacenter Migration	Yes	\$235

Licensing Solution Provider Agreement Number PSA-0001529

**Exhibit B (cont.)
License Support Provider (LSP) service rates**

Line	Description	Certified Competency (Yes/No)	Hourly Rate
	Modern Workplace		
1	User Adoption & Change Management	Yes	\$200
2	Security	Yes	\$235
3	GDPR & Compliance	No	\$0
4	Teamwork	Yes	\$235
5	Calling & Meetings	Yes	\$235
6	Modern Desktop	Yes	\$210
7	Office 365 Migration Assistance	Yes	\$210
7a	Mail	Yes	\$210
7b	Teams	Yes	\$235
7c	SharePoint	No	\$0
7d	OneDrive	Yes	\$210

Licensing Solution Provider Agreement Number PSA-0001529

Exhibit C
Microsoft LSP Participation Form

DAVE ROGERS
Assistant Chief Executive Officer
Chief Information Officer

JIM SMITH
Chief Technology Officer



JENNIFER HILBER, ACIO
Enterprise Applications Bureau
GUSTAVO VAZQUEZ, ACIO
Converged Communications Bureau
Public Safety Enterprise Communications
GIL MEJIA, ACIO
Technology Services Bureau

Microsoft LSP Participation Form
(RFQ #RIVCO-2020-RFQ-0000048 Attachment 3)

Complete this form and return to: Attention: Rick Hai E-mail: RHai@rivco.org	Payment should be made to: Riverside County Information Technology 3450 14th Street, Fourth Floor Riverside, CA 92501 County of Riverside TIN #: 95-6000930
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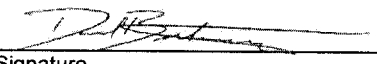
Company Name: Softchoice Corporation
Name Dave Tomke Title: Territory Sales Director, US Public Sector
Address: 314 W Superior St. Suite 400
City: Chicago Zip Code: 60654 Telephone #: 312-655-9002
Fax #: 877-310-7639 Email: dave.tomke@softchoice.com

The County of Riverside is the host of the Microsoft Master Agreement No. 8084445. All questions regarding the products and licensing should be directed to Microsoft.

By signing below, I am agreeing to pay the participation fees for each enrollment that is established by leveraging the County of Riverside Master Agreement in accordance to the schedule referenced on RFQ #RIVCO-2020-RFQ-0000048 and any subsequent contracts and / or amendments.

By signing below, I also agree that all enrollments will be submitted to Microsoft direct, to report enrollment activity and comply to the payment schedule per RFQ #RIVCO-2020-RFQ-0000048 to Riverside County Information Technology.

Please reference the remittance information above for where to send the payment. Failure to comply may result in the award being rescinded.


Signature
David Butkiewicz
Printed Name

9/11/2019
Date
Contract Program Manager
Title

Licensing Solution Provider Agreement Number PSA-000001529

**Exhibit D
Microsoft LSP Reporting of Active Enrollments Form**

LSP Name	<i>Company name</i>							
RIVCO Contract ID	<i>RIVCO-20800-00x-xx/xx</i>							
Microsoft Agreement Numbers	<i>01E69633, 01E73134, AND NEW</i>							
Master Enrollment	Enrollment Number:	Enrollment Entity:	Start Date:	End Date:	Annual Spend	Enrollment Contact:	Enrollment Contact Email:	Enrollment Contact Tel:
8084445	87654321	Riverside County Information Technology	1/01/12	12/31/16	\$645,000.00	John Doe	John.Doe@riverside.org	951-555-1212

Exhibit E
Master Agreement

Attached include the followings:

- 1) Signature Form
- 2) Microsoft Enterprise Agreement
- 3) Microsoft Enterprise Agreement Amendment

Microsoft Document Headersheet

** This is for informational purposes only **

MSE#:

(MSLI
Tracking
Number)

5-0000004275258

Doc Type:

Signature Form

Do not modify the formatting or spacing of this Form above this text

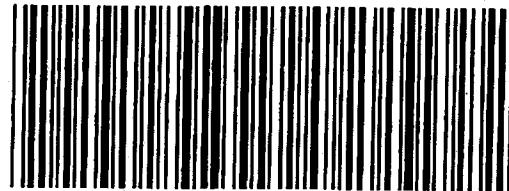
Subsidiary:

Country: **United States**

Account Manager Name / Alias:

LAR/LAD/ESA:

Insight Direct USA, Inc.



Program/Version

EA 6 2016

(Scanning Code)

ACCOUNT: County of Riverside

3

Outsourcer Name:

Business Agreement Number:

Master Agreement Number: **8084445**

Agreement Number:

Purchase Order Number:

Comments:



Volume Licensing

Program Signature Form

MBA/MESA number

004-kayleed-S-04

Agreement number

808444S

Note: Enter the applicable active numbers associated with the documents below. Microsoft requires the associated active number be indicated here, or listed below as new.

For the purposes of this form, "Customer" can mean the signing entity, Enrolled Affiliate, Government Partner, Institution, or other party entering into a volume licensing program agreement.

This signature form and all contract documents identified in the table below are entered into between the Customer and the Microsoft Affiliate signing, as of the effective date identified below.

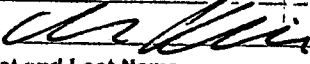
Contract Document	Number or Code
Enterprise Agreement	X20-10209
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
Amendment to Contract Documents	CTM-CPT-OPT-FWK (new)

By signing below, Customer and the Microsoft Affiliate agree that both parties (1) have received, read and understand the above contract documents, including any websites or documents incorporated by reference and any amendments and (2) agree to be bound by the terms of all such documents.

Customer	
Name of Entity (must be legal entity name)* County of Riverside	
Signature*	
Printed First and Last Name*	Richard R. Hai
Printed Title	Sr. Procurement Contract Specialist
Signature Date*	08/22/2019
Tax ID	

* indicates required field

FORM APPROVED COUNTY COUNSEL
BY:
DATE: 8/22/19
SUSANNA N. OH

Microsoft Affiliate	
Microsoft Corporation	
Signature 	 Microsoft Microsoft Corporation AUG 23 2019 Chance Krail Duly Authorized on behalf of Microsoft Corporation
Printed First and Last Name	
Printed Title	
Signature Date (date Microsoft Affiliate countersigns)	
Agreement Effective Date (may be different than Microsoft's signature date)	
8/23/2019	

Optional 2nd Customer signature or Outsourcer signature (if applicable)

Customer
Name of Entity (must be legal entity name)*
Signature*
Printed First and Last Name*
Printed Title
Signature Date*

* indicates required field

Outsourcer
Name of Entity (must be legal entity name)*
Signature*
Printed First and Last Name*
Printed Title
Signature Date*

* indicates required field

If Customer requires physical media, additional contacts, or is reporting multiple previous Enrollments, include the appropriate form(s) with this signature form.

After this signature form is signed by the Customer, send it and the Contract Documents to Customer's channel partner or Microsoft account manager, who must submit them to the following address. When the signature form is fully executed by Microsoft, Customer will receive a confirmation copy.

Microsoft Corporation
Dept. 551, Volume Licensing
6100 Neil Road, Suite 210
Reno, Nevada 89511-1137
USA

Microsoft Document Headersheet

* This is for informational purposes only *

MSE#:

(MSLI
Tracking
Number)

5-0000004275258

Doc Type:

~~XXXXXX~~ Agreement

Do not modify the formatting or spacing of this Form above this text

Subsidiary:

Country:

United States

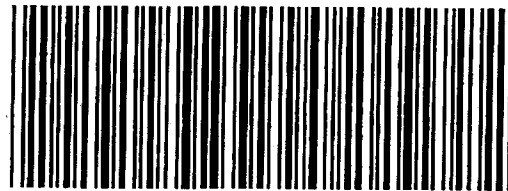
Account Manager Name / Alias:

LAR/LAD/ESA:

Insight Direct USA, Inc.

Program/Version

EA 6 2016



(Scanning Code)

ACCOUNT: County of Riverside

Outsourcer Name:

Business Agreement Number:

Master Agreement Number: **8084445**

Agreement Number:

Purchase Order Number:

15

Comments:

8/23/2019 9:42:31 PM



Enterprise Agreement

State and Local

Not for Use with Microsoft Business Agreement or Microsoft Business and Services Agreement

This Microsoft Enterprise Agreement ("Agreement") is entered into between the entities identified on the signature form.

Effective date. The effective date of this Agreement is the earliest effective date of any Enrollment entered into under this Agreement or the date Microsoft accepts this Agreement, whichever is earlier.

This Agreement consists of (1) these Agreement terms and conditions, including any amendments and the signature form and all attachments identified therein, (2) the Product Terms applicable to Products licensed under this Agreement, (3) the Online Services Terms, (4) any Affiliate Enrollment entered into under this Agreement, and (5) any order submitted under this Agreement.

Please note: Documents referenced in this Agreement but not attached to the signature form may be found at <http://www.microsoft.com/licensing/contracts> and are incorporated in this Agreement by reference, including the Product Terms and Use Rights. These documents may contain additional terms and conditions for Products licensed under this Agreement and may be changed from time to time. Customer should review such documents carefully, both at the time of signing and periodically thereafter, and fully understand all terms and conditions applicable to Products licensed.

Terms and Conditions

1. Definitions.

"Affiliate" means

- a. with regard to Customer,
 - (i) any government agency, department, office, instrumentality, division, unit or other entity of the state or local government that is supervised by or is part of Customer, or which supervises Customer or of which Customer is a part, or which is under common supervision with Customer;
 - (ii) any county, borough, commonwealth, city, municipality, town, township, special purpose district, or other similar type of governmental instrumentality established by the laws of Customer's state and located within Customer's state jurisdiction and geographic boundaries; and
 - (iii) any other entity in Customer's state expressly authorized by the laws of Customer's state to purchase under state contracts; provided that a state and its Affiliates shall not, for purposes of this definition, be considered to be Affiliates of the federal government and its Affiliates; and
- b. with regard to Microsoft, any legal entity that Microsoft owns, that owns Microsoft, or that is under common ownership with Microsoft.

"Customer" means the legal entity that has entered into this Agreement with Microsoft.

"Customer Data" means all data, including all text, sound, software, image, or video files that are provided to Microsoft by, or on behalf of, an Enrolled Affiliate and its Affiliates through use of Online Services.

"day" means a calendar day, except for references that specify "business day".

"Enrolled Affiliate" means an entity, either Customer or any one of Customer's Affiliates that has entered into an Enrollment under this Agreement.

"Enrollment" means the document that an Enrolled Affiliate submits under this Agreement to place orders for Products.

"Enterprise" means an Enrolled Affiliate and the Affiliates for which it is responsible and chooses on its Enrollment to include in its enterprise.

"Fixes" means Product fixes, modifications or enhancements, or their derivatives, that Microsoft either releases generally (such as Product service packs) or provides to Customer to address a specific issue.

"License" means the right to download, install, access and use a Product. For certain Products, a License may be available on a fixed term or subscription basis ("Subscription License"). Licenses for Online Services will be considered Subscription Licenses.

"Microsoft" means the Microsoft Affiliate that has entered into this Agreement or an Enrollment and its Affiliates, as appropriate.

"Online Services" means the Microsoft-hosted services identified as Online Services in the Product Terms.

"Online Services Terms" means the additional terms that apply to Customer's use of Online Services published on the Volume Licensing Site and updated from time to time.

"Product" means all products identified in the Product Terms, such as all Software, Online Services and other web-based services, including pre-release or beta versions.

"Product Terms" means the document that provides information about Microsoft Products and Professional Services available through volume licensing. The Product Terms document is published on the Volume Licensing Site and is updated from time to time.

"SLA" means Service Level Agreement, which specifies the minimum service level for Online Services and is published on the Volume Licensing Site.

"Software" means licensed copies of Microsoft software identified on the Product Terms. Software does not include Online Services, but Software may be part of an Online Service.

"Software Assurance" is an offering by Microsoft that provides new version rights and other benefits for Products as further described in the Product Terms.

"Trade Secret" means information that is not generally known or readily ascertainable to the public, has economic value as a result, and has been subject to reasonable steps under the circumstances to maintain its secrecy.

"use" or "run" means to copy, install, use, access, display, run or otherwise interact.

"Use Rights" means the use rights or terms of service for each Product published on the Volume Licensing Site and updated from time to time. The Use Rights supersede the terms of any end user license agreement that accompanies a Product. The Use Rights for Software are published by Microsoft in the Product Terms. The Use Rights for Online Services are published in the Online Services Terms.

"Volume Licensing Site" means <http://www.microsoft.com/licensing/contracts> or a successor site.

2. How the Enterprise program works.

- a. **General.** The Enterprise program consists of the terms and conditions on which an Enrolled Affiliate may acquire Product Licenses. Under the Enterprise program, Customer and its Affiliates may order Licenses for Products by entering into Enrollments.
- b. **Enrollments.** The Enterprise program gives Customer and/or its Affiliates the ability to enter into one or more Enrollments to order Products. Subscription Enrollments may be available for some of these Enrollments. Notwithstanding any other provision of this Agreement, only Enrolled Affiliates identified in an Enrollment will be responsible for complying with the terms of that Enrollment, including the terms of this Agreement incorporated by reference in that Enrollment.

- c. **Licenses.** The types of Licenses available are (1) Licenses obtained under Software Assurance (L&SA), and (2) Subscription Licenses. These License types, as well as additional License Types, are further described in the Product List.

3. **Licenses for Products.**

- a. **License Grant.** Microsoft grants the Enterprise a non-exclusive, worldwide and limited right to download, install and use software Products, and to access and use the Online Services, each in the quantity ordered under an Enrollment. The rights granted are subject to the terms of this Agreement, the Use Rights and the Product Terms. Microsoft reserves all rights not expressly granted in this Agreement.
- b. **Duration of Licenses.** Subscription Licenses and most Software Assurance rights are temporary and expire when the applicable Enrollment is terminated or expires, unless the Enrolled Affiliate exercises a buy-out option, which is available for some Subscription Licenses. Except as otherwise noted in the applicable Enrollment or Use Rights, all other Licenses become perpetual only when all payments for that License have been made and the initial Enrollment term has expired.
- c. **Applicable Use Rights.**
- (i) **Products (other than Online Services).** The Use Rights in effect on the effective date of the applicable Enrollment term will apply to Enterprise's use of the version of each Product that is current at the time. For future versions and new Products, the Use Rights in effect when those versions and Products are first released will apply. Changes Microsoft makes to the Use Rights for a particular version will not apply unless the Enrolled Affiliate chooses to have those changes apply. The Use Rights applicable to perpetual Licenses that were acquired under a previous agreement or Enrollment are determined by the Agreement or Enrollment under which they were acquired. Renewal of Software Assurance does not change which Use Rights apply to those Licenses.
 - (ii) **Online Services.** For Online Services, the Use Rights in effect on the subscription start date will apply for the subscription term as defined in the Product Terms.
- d. **Downgrade rights.** Enrolled Affiliate may use an earlier version of a Product other than Online Services than the version that is current on the effective date of the Enrollment. For Licenses acquired in the current Enrollment term, the Use Rights for the current version apply to the use of the earlier version. If the earlier Product version includes features that are not in the new version, then the Use Rights applicable to the earlier version apply with respect to those features.
- e. **New Version Rights under Software Assurance.** Enrolled Affiliate must order and maintain continuous Software Assurance coverage for each License ordered. With Software Assurance coverage, Enterprise automatically has the right to use a new version of a licensed Product as soon as it is released, even if Enrolled Affiliate chooses not to use the new version immediately.
- (i) Except as otherwise permitted under an Enrollment, use of the new version will be subject to the new version's Use Rights.
 - (ii) If the License for the earlier version of the Product is perpetual at the time the new version is released, the License for the new version will also be perpetual. Perpetual Licenses obtained through Software Assurance replace any perpetual Licenses for the earlier version.
- f. **License confirmation.** This Agreement, the applicable Enrollment, Enrolled Affiliate's order confirmation, and any documentation evidencing transfers of perpetual Licenses, together with proof of payment, will be Enrolled Affiliate's evidence of all Licenses obtained under an Enrollment.

- g. **Reorganizations, consolidations and privatizations.** If the number of Licenses covered by an Enrollment changes by more than ten percent as a result of (1) a reorganization, consolidation or privatization of an entity or an operating division, (2) a privatization of an Affiliate or an operating division of Enrolled Affiliate or any of its Affiliates, or (3) a consolidation including a merger with a third party that has an existing agreement or Enrollment, Microsoft will work with Enrolled Affiliate in good faith to determine how to accommodate its changed circumstances in the context of this Agreement.

4. Making copies of Products and re-imaging rights.

- a. **General.** Enrolled Affiliate may make as many copies of Products, as it needs to distribute them within the Enterprise. Copies must be true and complete (including copyright and trademark notices) from master copies obtained from a Microsoft approved fulfillment source. Enrolled Affiliate may use a third party to make these copies, but Enrolled Affiliate agrees it will be responsible for any third party's actions. Enrolled Affiliate agrees to make reasonable efforts to notify its employees, agents, and any other individuals who use the Products that the Products are licensed from Microsoft and subject to the terms of this Agreement.
- b. **Copies for training/evaluation and back-up.** For all Products other than Online Services, Enrolled Affiliate may: (1) use up to 20 complimentary copies of any licensed Product in a dedicated training facility on its premises for purposes of training on that particular Product, (2) use up to 10 complimentary copies of any Products for a 60-day evaluation period, and (3) use one complimentary copy of any licensed Product for back-up or archival purposes for each of its distinct geographic locations. Trials for Online Services may be available if specified in the Use Rights.
- c. **Right to re-image.** In certain cases, re-imaging is permitted using the Product media. If the Microsoft Product is licensed (1) from an original equipment manufacturer (OEM), (2) as a full packaged Product through a retail source, or (3) under another Microsoft program, then media provided under this Agreement may generally be used to create images for use in place of copies provided through that separate source. This right is conditional upon the following:
- (i) Separate Licenses must be acquired from the separate source for each Product that is re-imaged.
 - (ii) The Product, language, version, and components of the copies made must be identical to the Product, language, version, and all components of the copies they replace and the number of copies or instances of the re-imaged Product permitted remains the same.
 - (iii) Except for copies of an operating system and copies of Products licensed under another Microsoft program, the Product type (e.g., Upgrade or full License) re-imaged must be identical to the Product type licensed from the separate source.
 - (iv) Enrolled Affiliate must adhere to any Product-specific processes or requirements for re-imaging identified in the Product Terms.

Re-imaged Products remain subject to the terms and use rights of the License acquired from the separate source. This subsection does not create or extend any Microsoft warranty or support obligation.

5. Transferring and reassigning Licenses.

- a. **License transfers.** License transfers are not permitted, except that Customer or an Enrolled Affiliate may transfer only fully-paid perpetual Licenses to:
- (i) an Affiliate, or
 - (ii) a third party solely in connection with the transfer of hardware or employees to whom the Licenses have been assigned as part of (A) a privatization of an Affiliate or agency or of an

operating division of Enrolled Affiliate or an Affiliate. (B) a reorganization, or (C) a consolidation.

Upon such transfer, Customer or Enrolled Affiliate must uninstall and discontinue using the licensed Product and render any copies unusable.

- b. **Notification of License Transfer.** Enrolled Affiliate must notify Microsoft of a License transfer by completing a license transfer form, which can be obtained from <http://www.microsoft.com/licensing/contracts> and sending the completed form to Microsoft before the License transfer. No License transfer will be valid unless Enrolled Affiliate provides to the transferee, and the transferee accepts in writing, documents sufficient to enable the transferee to ascertain the scope, purpose and limitations of the rights granted by Microsoft under the licenses being transferred (including the applicable Use Rights, use and transfer restrictions, warranties and limitations of liability). Any License transfer not made in compliance with this section will be void.
- c. **Internal Assignment of Licenses and Software Assurance.** Licenses and Software Assurance must be assigned to a single user or device within the Enterprise. Licenses and Software Assurance may be reassigned within the Enterprise as described in the Use Rights.

6. **Term and termination.**

- a. **Term.** The term of this Agreement will be 36 full calendar months from the effective date unless terminated by either party as described below. Each Enrollment will have the term provided in that Enrollment.
- b. **Termination without cause.** Either party may terminate this Agreement, without cause, upon 60 days' written notice. In the event of termination, new Enrollments will not be accepted, but any existing Enrollment will continue for the term of such Enrollment and will continue to be governed by this Agreement.
- c. **Mid-term termination for non-appropriation of Funds.** Enrolled Affiliate may terminate this Agreement or an Enrollment without liability, penalty or further obligation to make payments if funds to make payments under the Agreement or Enrollment are not appropriated or allocated by the Enrolled Affiliate for such purpose.
- d. **Termination for cause.** Without limiting any other remedies it may have, either party may terminate an Enrollment if the other party materially breaches its obligations under this Agreement, including any obligation to submit orders or pay invoices. Except where the breach is by its nature not curable within 30 days, the terminating party must give the other party 30 days' notice of its intent to terminate and an opportunity to cure the breach.

If Microsoft gives such notice to an Enrolled Affiliate, Microsoft also will give Customer a copy of that notice and Customer agrees to help resolve the breach. If the breach affects other Enrollments and cannot be resolved between Microsoft and Enrolled Affiliate, together with Customer's help, within a reasonable period of time, Microsoft may terminate this Agreement and all Enrollments under it. If an Enrolled Affiliate ceases to be Customer's Affiliate, it must promptly notify Microsoft, and Microsoft may terminate the former Affiliate's Enrollment. If an Enrolled Affiliate terminates its Enrollment as a result of a breach by Microsoft, or if Microsoft terminates an Enrollment because Enrolled Affiliate ceases to be Customer's Affiliate, then Enrolled Affiliate will have the early termination rights described in the Enrollment.

- e. **Early termination.** If (1) an Enrolled Affiliate terminates its Enrollment as a result of a breach by Microsoft, or (2) if Microsoft terminates an Enrollment because the Enrolled Affiliate has ceased to be an Affiliate of Customer, or (3) Enrolled Affiliate terminates an Enrollment for non-appropriation of funds, or (4) Microsoft terminates an Enrollment for non-payment due to non-appropriation of funds, then the Enrolled Affiliate will have the following options:
 - (i) It may immediately pay the total remaining amount due, including all installments, in which case, the Enrolled Affiliate will have perpetual rights for all Licenses it has ordered; or

(ii) It may pay only amounts due as of the termination date, in which case the Enrolled Affiliate will have perpetual Licenses for:

- 1) all copies of Products (including the latest version of Products ordered under SA coverage in the current term) for which payment has been made in full, and
- 2) the number of copies of Products it has ordered (including the latest version of Products ordered under Software Assurance coverage in current term) that is proportional to the total of installment payments paid versus total amounts due (paid and payable) if the early termination had not occurred.

(iii) In the case of early termination under subscription Enrollments, Enrolled Affiliate will have the following options:

- 1) For eligible Products, Enrolled Affiliate may obtain perpetual Licenses as described in the section of the Enrollment titled "Buy-out option," provided that Microsoft receives the buy-out order for those Licenses within 60 days after Enrolled Affiliate provides notice of termination.
- 2) In the event of a breach by Microsoft, if Customer chooses not to exercise a buy-out option, Microsoft will issue Enrolled Affiliate a credit for any amount paid in advance for Subscription Licenses that the Enterprise will not be able to use to do the termination of the Enrollment.

Nothing in this section shall affect perpetual License rights acquired either in a separate agreement or in a prior term of the terminated Enrollment.

f. **Effect of termination or expiration.** When an Enrollment expires or is terminated,

(i) Enrolled Affiliate must order Licenses for all copies of Products it has run for which it has not previously submitted an order. Any and all unpaid payments for any order of any kind remain due and payable. Except as provided in the subsection titled "Early termination," all unpaid payments for Licenses immediately become due and payable.

(ii) Enrolled Affiliate's right to Software Assurance benefits under this Agreement ends if it does not renew Software Assurance.

g. **Modification or termination of an Online Service for regulatory reasons.** Microsoft may modify or terminate an Online Service where there is any current or future government requirement or obligation that: (1) subjects Microsoft to any regulation or requirement not generally applicable to businesses operating in the jurisdiction; (2) presents a hardship for Microsoft to continue operating the Online Service without modification; and/or (3) causes Microsoft to believe these terms or the Online Service may conflict with any such requirement or obligation.

h. **Program updates.** Microsoft may make changes to this program that will make it necessary for Customer and its Enrolled Affiliates to enter into new agreements and Enrollments at the time of an Enrollment renewal.

7. Use, ownership, rights, and restrictions.

- a. **Products.** Unless otherwise specified in a supplemental agreement, use of any Product is governed by the Use Rights specific to each Product and version and by the terms of the applicable supplemental agreement.
- b. **Fixes.** Each Fix is licensed under the same terms as the Product to which it applies. If a Fix is not provided for a specific Product, any use rights Microsoft provides with the Fix will apply.
- c. **Non-Microsoft software and technology.** Enrolled Affiliate is solely responsible for any non-Microsoft software or technology that it installs or uses with the Products or Fixes.

- d. **Restrictions.** Enrolled Affiliate must not (and is not licensed to) (1) reverse engineer, decompile, or disassemble any Product or Fix; (2) install or use non-Microsoft software or technology in any way that would subject Microsoft's intellectual property or technology to any other license terms; or (3) work around any technical limitations in a Product or Fix or restrictions in Product documentation. Customer must not (and is not licensed to) (i) separate and run parts of a Product or Fix on more than one device, upgrade or downgrade parts of a Product or Fix at different times, or transfer parts of a Product or Fix separately; or (ii) distribute, sublicense, rent, lease, lend any Products or Fixes, in whole or in part, or use them to offer hosting services to a third party.
- e. **Reservation of rights.** Products and Fixes are protected by copyright and other intellectual property rights laws and international treaties. Microsoft reserves all rights not expressly granted in this agreement. No rights will be granted or implied by waiver or estoppel. Rights to access or use Software on a device do not give Customer any right to implement Microsoft patents or other Microsoft intellectual property in the device itself or in any other software or devices.

8. Confidentiality.

"Confidential Information" is non-public information that is designated "confidential" or that a reasonable person should understand is confidential, including Customer Data. Confidential Information does not include information that (a) becomes publicly available without a breach of this agreement, (b) the receiving party received lawfully from another source without a confidentiality obligation, (c) is independently developed, or (d) is a comment or suggestion volunteered about the other party's business, products or services.

Each party will take reasonable steps to protect the other's Confidential Information and will use the other party's Confidential Information only for purposes of the parties' business relationship. Neither party will disclose that Confidential Information to third parties, except to its employees, Affiliates, contractors, advisors and consultants ("Representatives") and then only on a need-to-know basis under nondisclosure obligations at least as protective as this agreement. Each party remains responsible for the use of the Confidential Information by its Representatives and, in the event of discovery of any unauthorized use or disclosure, must promptly notify the other party.

A party may disclose the other's Confidential Information if required by law; but only after it notifies the other party (if legally permissible) to enable the other party to seek a protective order.

Neither party is required to restrict work assignments of its Representatives who have had access to Confidential Information. Each party agrees that the use of information retained in Representatives' unaided memories in the development or deployment of the parties' respective products or services does not create liability under this Agreement or trade secret law, and each party agrees to limit what it discloses to the other accordingly.

These obligations apply (i) for Customer Data until it is deleted from the Online Services, and (ii) for all other Confidential Information, for a period of five years after a party receives the Confidential Information.

9. Privacy and compliance with laws.

- a. Enrolled Affiliate consents to the processing of personal information by Microsoft and its agents to facilitate the subject matter of this Agreement. Enrolled Affiliate will obtain all required consents from third parties under applicable privacy and data protection law before providing personal information to Microsoft.
- b. Personal information collected under this agreement (i) may be transferred, stored and processed in the United States or any other country in which Microsoft or its service providers maintain facilities and (ii) will be subject to the privacy terms specified in the Use Rights. Microsoft will abide by the requirements of European Economic Area and Swiss data protection

law regarding the collection, use, transfer, retention, and other processing of personal data from the European Economic Area and Switzerland.

- c. **U.S. export.** Products and Fixes are subject to U.S. export jurisdiction. Enrolled Affiliate must comply with all applicable international and national laws, including the U.S. Export Administration Regulations and International Traffic in Arms Regulations, and end-user, end use and destination restrictions issued by U.S. and other governments related to Microsoft products, services and technologies.

10. Warranties.

a. Limited warranties and remedies.

- (i) **Software.** Microsoft warrants that each version of the Software will perform substantially as described in the applicable Product documentation for one year from the date the Enterprise is first licensed for that version. If it does not and the Enterprise notifies Microsoft within the warranty term, then Microsoft will, at its option (1) return the price Enrolled Affiliate paid for the Software license, or (2) repair or replace the Software.
- (ii) **Online Services.** Microsoft warrants that each Online Service will perform in accordance with the applicable SLA during the Enterprise's use. The Enterprise's remedies for breach of this warranty are in the SLA.

The remedies above are the Enterprise's sole remedies for breach of the warranties in this section. Customer waives any breach of warranty claims not made during the warranty period.

- b. **Exclusions.** The warranties in this agreement do not apply to problems caused by accident, abuse, or use in a manner inconsistent with this Agreement, including failure to meet minimum system requirements. These warranties do not apply to free, trial, pre-release, or beta products, or to components of Products that Enrolled Affiliate is permitted to redistribute.
- c. **Disclaimer.** Except for the limited warranties above, Microsoft provides no other warranties or conditions and disclaims any other express, implied, or statutory warranties, including warranties of quality, title, non-infringement, merchantability, and fitness for a particular purpose.

11. Defense of third party claims.

The parties will defend each other against the third-party claims described in this section and will pay the amount of any resulting adverse final judgment or approved settlement, but only if the defending party is promptly notified in writing of the claim and has the right to control the defense and any settlement of it. The party being defended must provide the defending party with all requested assistance, information, and authority. The defending party will reimburse the other party for reasonable out-of-pocket expenses it incurs in providing assistance. This section describes the parties' sole remedies and entire liability for such claims.

- a. **By Microsoft.** Microsoft will defend Enrolled Affiliate against any third-party claim to the extent it alleges that a Product or Fix made available by Microsoft for a fee and used within the scope of the license granted (unmodified from the form provided by Microsoft and not combined with anything else) misappropriates a trade secret or directly infringes a patent, copyright, trademark or other proprietary right of a third party. If Microsoft is unable to resolve a claim of infringement under commercially reasonable terms, it may, at its option, either (1) modify or replace the Product or Fix with a functional equivalent; or (2) terminate Enrolled Affiliate's license and refund any prepaid license fees (less depreciation on a five-year, straight-line basis) for perpetual licenses and any amount paid for Online Services for any usage period after the termination date. Microsoft will not be liable for any claims or damages due to Enrolled Affiliate's continued use of a Product or Fix after being notified to stop due to a third-party claim.
- b. **By Enrolled Affiliate.** To the extent permitted by applicable law, Enrolled Affiliate will defend Microsoft against any third-party claim to the extent it alleges that: (1) any Customer Data or

non-Microsoft software hosted in an Online Service by Microsoft on Enrolled Affiliate's behalf misappropriates a trade secret or directly infringes a patent, copyright, trademark, or other proprietary right of a third party; or (2) Enrolled Affiliate's use of any Product or Fix, alone or in combination with anything else, violates the law or damages a third party.

12. Limitation of liability.

For each Product, each party's maximum, aggregate liability to the other under this Agreement is limited to direct damages finally awarded in an amount not to exceed the amounts Enrolled Affiliate was required to pay for the applicable Products during the term of this Agreement, subject to the following:

- a. **Online Services.** For Online Services, Microsoft's maximum liability to Enrolled Affiliate for any incident giving rise to a claim will not exceed the amount Enrolled Affiliate paid for the Online Service during the 12 months before the incident.
- b. **Free Products and Distributable Code.** For Products provided free of charge and code that Enrolled Affiliate is authorized to redistribute to third parties without separate payment to Microsoft, Microsoft's liability is limited to direct damages finally awarded up to US\$5,000.
- c. **Exclusions.** In no event will either party be liable for indirect, incidental, special, punitive, or consequential damages, or for loss of use, loss of business information, loss of revenue, or interruption of business, however caused or on any theory of liability.
- d. **Exceptions.** No limitation or exclusions will apply to liability arising out of either party's (1) confidentiality obligations (except for all liability related to Customer Data, which will remain subject to the limitations and exclusions above); (2) defense obligations; or (3) violation of the other party's intellectual property rights.

13. Verifying compliance.

- a. **Right to verify compliance.** Enrolled Affiliate must keep records relating to all use and distribution of Products by Enrolled Affiliate and its Affiliates. Microsoft has the right, at its expense, to the extent permitted by applicable law, to verify compliance with the Product's license terms. Enrolled Affiliate must promptly provide the independent auditor with any information the auditor reasonably requests in furtherance of the verification, including access to systems running the Products and evidence of Licenses for Products Enrolled Affiliate hosts, sublicenses, or distributes to third parties. Enrolled Affiliate agrees to complete Microsoft's self-audit process, which Microsoft may require as an alternative to a third party audit.
- b. **Remedies for non-compliance.** If verification or self-audit reveals any unlicensed use or distribution, then within 30 days, (1) Enrolled Affiliate must order sufficient Licenses to cover that use or distribution, and (2) if unlicensed use or distribution is 5% or more, Enrolled Affiliate must reimburse Microsoft for the cost Microsoft has incurred in verification and acquire the necessary additional licenses at 125% of the price based on the then-current price list and Enrolled Affiliate price level. The unlicensed use percentage is based on the total number of licenses purchased compared to actual install base. If there is no unlicensed use, Microsoft will not subject Enrolled Affiliate to another verification for at least one year. By exercising the rights and procedures described above, Microsoft does not waive its rights to enforce this Agreement or to protect its intellectual property by any other means permitted by law.
- c. **Verification process.** Microsoft will notify Enrolled Affiliate at least 30 days in advance of its intent to verify Enrolled Affiliate's compliance with the license terms for the Products Enrolled Affiliate and its Affiliates use or distribute. Microsoft will engage an independent auditor, which will be subject to a confidentiality obligation. Any information collected in the self-audit will be used solely for purposes of determining compliance. This verification will take place during normal business hours and in a manner that does not interfere unreasonably with Enrolled Affiliate's operations.

14. **Miscellaneous.**

- a. **Use of contractors.** Microsoft may use contractors to perform services, but will be responsible for their performance subject to the terms of this Agreement.
- b. **Microsoft as independent contractor.** The parties are independent contractors. Enrolled Affiliate and Microsoft each may develop products independently without using the other's Confidential Information.
- c. **Notices.** Notices to Microsoft must be sent to the address on the signature form. Notices must be in writing and will be treated as delivered on the date shown on the return receipt or on the courier or fax confirmation of delivery. Microsoft may provide information to Enrolled Affiliate about upcoming ordering deadlines, services, and subscription information in electronic form, including by email to contacts provided by Enrolled Affiliate. Emails will be treated as delivered on the transmission date.
- d. **Agreement not exclusive.** Customer is free to enter into agreements to license, use or promote non-Microsoft products.
- e. **Amendments.** Any amendment to this Agreement must be executed by both parties, except that Microsoft may change the Product Terms and the Use Rights from time to time in accordance with the terms of this Agreement. Any conflicting terms and conditions contained in an Enrolled Affiliate's purchase order will not apply. Microsoft may require Customer to sign a new agreement or an amendment before an Enrolled Affiliate enters into an Enrollment under this agreement.
- f. **Assignment.** Either party may assign this Agreement to an Affiliate, but must notify the other party in writing of the assignment. Any other proposed assignment must be approved by the non-assigning party in writing. Assignment will not relieve the assigning party of its obligations under the assigned agreement. Any attempted assignment without required approval will be void.
- g. **Applicable law; dispute resolution.** The terms of this Agreement will be governed by the laws of Customer's state, without giving effect to its conflict of laws. Disputes relating to this Agreement will be subject to applicable dispute resolution laws of Customer's state.
- h. **Severability.** If any provision in this agreement is held to be unenforceable, the balance of the agreement will remain in full force and effect.
- i. **Waiver.** Failure to enforce any provision of this agreement will not constitute a waiver. Any waiver must be in writing and signed by the waiving party.
- j. **No third-party beneficiaries.** This Agreement does not create any third-party beneficiary rights.
- k. **Survival.** All provisions survive termination or expiration of this Agreement except those requiring performance only during the term of the Agreement.
- l. **Management and Reporting.** Customer and/or Enrolled Affiliate may manage account details (e.g., contacts, orders, Licenses, software downloads) on Microsoft's Volume Licensing Service Center ("VLSC") web site (or successor site) at: <https://www.microsoft.com/licensing/servicecenter>. Upon the effective date of this Agreement and any Enrollments, the contact(s) identified for this purpose will be provided access to this site and may authorize additional users and contacts.
- m. **Order of precedence.** In the case of a conflict between any documents in this Agreement that is not expressly resolved in those documents, their terms will control in the following order from highest to lowest priority: (1) this Enterprise Agreement, (2) any Enrollment, (3) the Product Terms, (4) the Online Services Terms, (5) orders submitted under this Agreement, and (6) any other documents in this Agreement. Terms in an amendment control over the amended document and any prior amendments concerning the same subject matter.

- n. **Free Products.** It is Microsoft's intent that the terms of this Agreement and the Use Rights be in compliance with all applicable federal law and regulations. Any free Product provided to Enrolled Affiliate is for the sole use and benefit of the Enrolled Affiliate, and is not provided for use by or personal benefit of any specific government employee.
- o. **Voluntary Product Accessibility Templates.** Microsoft supports the government's obligation to provide accessible technologies to its citizens with disabilities as required by Section 508 of the Rehabilitation Act of 1973, and its state law counterparts. The Voluntary Product Accessibility Templates ("VPATs") for the Microsoft technologies used in providing the Online Services can be found at Microsoft's VPAT page. Further information regarding Microsoft's commitment to accessibility can be found at <http://www.microsoft.com/enable>.
- p. **Natural disaster.** In the event of a "natural disaster," Microsoft may provide additional assistance or rights by posting them on <http://www.microsoft.com> at such time.
- q. **Copyright violation.** Except as set forth in the section above entitled "Transferring and reassigning Licenses", the Enrolled Affiliate agrees to pay for, and comply with the terms of this Agreement and the Use Rights, for the Products it uses. Except to the extent Enrolled Affiliate is licensed under this Agreement, it will be responsible for its breach of this contract and violation of Microsoft's copyright in the Products, including payment of License fees specified in this Agreement for unlicensed use.

Supplemental Contact Information Form

This form can be used in combination with MBSA, Agreement, and Enrollment/Registration. However, a separate form must be submitted for each enrollment/registration, when more than one is submitted on a signature form. For the purposes of this form, "entity" can mean the signing entity, Customer, Enrolled Affiliate, Government Partner, Institution, or other party entering into a volume licensing program agreement. Primary and Notices contacts in this form will not apply to enrollments or registrations.

This form applies to:

- ☐ MBSA
☒ Agreement
☐ Enrollment/Affiliate Registration Form

Insert primary entity name if more than one Enrollment/Registration Form is submitted

Contact information.

Each party will notify the other in writing if any of the information in the following contact information page(s) changes. The asterisks (*) indicate required fields; if the entity chooses to designate other contact types, the same required fields must be completed for each section. By providing contact information, entity consents to its use for purposes of administering the Enrollment by Microsoft and other parties that help Microsoft administer this Enrollment. The personal information provided in connection with this agreement will be used and protected according to the privacy statement available at <https://licensing.microsoft.com>.

1. Additional notices contact.

This contact receives all notices that are sent from Microsoft. No online access is granted to this individual.

Name of entity* County of Riverside
 Contact name*: First Regina Last Funderburk
 Contact email address* RFunderburk@rivco.org
 Street address* 3450 14th Street, 4th Floor
 City* Riverside State/Province* California Postal code* 92501-3861
 Country* USA
 Phone* 951-955-2265 Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

2. Software Assurance manager.

This contact will receive online permissions to manage the Software Assurance benefits under the Enrollment or Registration.

Name of entity* County of Riverside
 Contact name*: First Regina Last Funderburk
 Contact email address* RFunderburk@rivco.org
 Street address* 3450 14th Street, 4th Floor
 City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-2265 Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

3. *Subscriptions manager.*

This contact will assign MSDN, Expression, and TechNet Plus subscription licenses to the individual subscribers under this Enrollment or Registration. Assignment of the subscription licenses is necessary for access to any of the online benefits, such as subscription downloads. This contact will also manage any complimentary or additional media purchases related to these subscriptions.

Name of entity* County of Riverside

Contact name*: First Regina Last Funderburk

Contact email address* RFunderburk@rivco.org

Street address* 3450 14th Street, 4th Floor

City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-2265 Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

4. *Online services manager.*

This contact will be provided online permissions to manage the online services ordered under the Enrollment or Registration.

Name of entity* County of Riverside

Contact name*: First Luis Last Flores

Contact email address* LFFlores@rivco.org

Street address* 3450 14th Street, 4th Floor

City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-8114 Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

5. *Customer Support Manager (CSM).*

This person is designated as the Customer Support Manager (CSM) for support-related activities.

Name of entity* County of Riverside

Contact name*: First Luis Last Flores

Contact email address* LFFlores@rivco.org

Street address* 3450 14th Street, 4th Floor

City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-8114 Fax

6. *Primary contact information.*

An individual from inside the organization must serve as the primary contact. This contact receives online administrator permissions and may grant online access to others. This contact also receives all notices unless Microsoft is provided written notice of a change.

Name of entity* County of Riverside

Contact name*: First Jim Last Smith
Contact email address* jimsmith@rivco.org
Street address* 3450 14th Street, 4th Floor
City* Riverside State/Province* CA Postal code* 92501-3861
Country* US
Phone* 951-231-5909 Fax

7. Notices contact and online administrator information.

This individual receives online administrator permissions and may grant online access to others. This contact also receives all notices.

☒ Same as primary contact

Name of entity*

Contact name*: First Last

Contact email address*

Street address*

City* State/Province* Postal code*

Country*

Phone* Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

Microsoft Document Headersheet

** This is for informational purposes only **

MSE#:

(MSLI
Tracking
Number)

5-0000004275258

Doc Type:

Amendments

Do not modify the formatting or spacing of this Form above this text

Subsidiary:

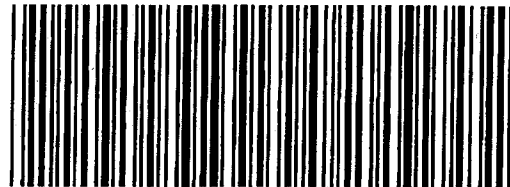
Country:

United States

Account Manager Name / Alias:

LAR/LAD/ESA:

Insight Direct USA, Inc.



Program/Version

EA 6 2016

(Scanning Code)

ACCOUNT: County of Riverside

Outsourcer Name:

Business Agreement Number:

Master Agreement Number: **8084445**

Agreement Number:

Purchase Order Number:

3

Comments:

Amendment to Contract Documents

Agreement Number:

8084445

004-kayleed-S-04

This amendment ("Amendment") is entered into between the parties identified on the attached program signature form. It amends the Enrollment or Agreement identified above. All terms used but not defined in this Amendment will have the same meanings provided in that Enrollment or Agreement.

Enterprise Agreement Custom Terms CTM

1. Section 6a, "Term", is hereby amended and restated as follows:
 - a. Term. The term of this Agreement will remain in effect unless terminated by either party as described below. Each Enrollment will have the term provided in that Enrollment.
2. The pricing that Microsoft will offer Enrolled Affiliate's Reseller for Enrollments effective between November 1, 2019 through October 31, 2021, and that will apply for the entire initial term of such Enrollments, is as follows:

Product	Price Level	Examples include but are not limited to the following*:
Enterprise Online Services** (including Full USLs, From SA USLs, Add-ons and Step Ups)	Level D minus 2%	M365 E3 and E5, Enterprise Mobility + Security E3 and E5, Office 365 Enterprise E1 or E3, Windows 10 Enterprise E3 or E5
Enterprise Products	Level D	Office 365 Pro Plus, Windows 10 Enterprise, Core CAL Suite, Enterprise CAL Suite
Additional Products	Level D	M365 F1, M365 E5 Compliance, M365 E5 Security, Office 365 Enterprise F1, Project Online, Visio Online Plan 1 or Plan 2, Dynamics 365, Azure, SQL Server, Windows Server, etc.
Server and Tools Product (applies to Server and Cloud Enrollments only)	Level D	SharePoint Server, SQL Server, BizTalk Server, Visual Studio, Core Infrastructure Suites, etc.

*The examples include online services that are available in either the commercial or government cloud offerings.

**Qualifying Enterprise Online Services are identified in the Product Terms with the cell value of "EO" in the tables for "Program Availability". The scope of Enterprise Online Services is subject to change as Enterprise Online Services are added, updated/revised or removed from the Enterprise program offering.

Exclusions apply to the additional 2% discount on Enterprise Online Services as follows:

- The price list month that applies to an order is not a factor in determining whether the additional 2% discount on Enterprise Online Services may be applied to an order. The only applicable factor is the effective date of the Enrollment.
- The discount does not apply to any extensions of the initial Term or renewal Enrollments.
- The discount does not apply to any promotional SKUs. Enrolled Affiliate is entitled to the lower of the promotional price or discounted price.

The price level that applies to Enrollments effective on or after November 1, 2021 is Level D for all Products.

The Reseller and the Enrolled Affiliate will determine the Enrolled Affiliate's actual price and payment terms.

Except for changes made by this Amendment, the Enrollment or Agreement identified above remains unchanged and in full force and effect. If there is any conflict between any provision in this Amendment and any provision in the Enrollment or Agreement identified above, this Amendment shall control.

This Amendment must be attached to a signature form to be valid.

Microsoft Internal Use Only:

Riverside County EA Amend 8.7.docx	CTM	CTM-CPT-OPT-FWK	BD
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Licensing Solution Provider Agreement Number PSA-0001530

This Licensing Solution Provider Agreement is made and entered into this 22nd day of October 2019, by and between Software One, Inc., a Wisconsin corporation ("CONTRACTOR"), and the COUNTY OF RIVERSIDE, a political subdivision of the State of California, ("COUNTY").

WHEREAS, COUNTY and Microsoft Corporation ("Microsoft") have entered into that certain Microsoft Enterprise Agreement (Master Agreement No. 8084445; the "Master Agreement"), effective August 23, 2019, under which COUNTY has the ability to enter into one or more enrollments to order certain Microsoft product licenses;

WHEREAS, CONTRACTOR desires to provide support to COUNTY and its Enrolled Affiliates (as defined in the Master Agreement) for said licenses under this Agreement and hereby represents that it has the skills, experience, and knowledge necessary to perform under this Agreement; and

WHEREAS, COUNTY desires to accept CONTRACTOR's services under this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

1. This Agreement covers all enrollments for all products licensed under the Master Agreement. All terms and conditions of the Master Agreement, attached as Exhibit E of this Agreement and incorporated by reference, shall apply to the purchase of related products and services.
2. This Agreement is available for use by all government entities within the State of California (an "Enrolled Affiliate") for the duration of the Term (defined below in section 4). Enrollment documents will contain the terms and conditions specific to each entity.
3. CONTRACTOR agrees to extend the same pricing, terms, and conditions as stated in this agreement to each and every government entity in the State of California. Terms and conditions are governed by this Agreement, the Master Agreement, and the applicable enrollment documents for each entity. Entities shall make purchases in their own name, make direct payment to CONTRACTOR, and be liable directly to CONTRACTOR for all obligations.
 - 3.1 COUNTY shall in no way be responsible to CONTRACTOR for Enrolled Affiliates' purchases and obligations. COUNTY shall in no way be responsible to other entities for their purchases or any acts or omissions of CONTRACTOR, including but not limited to product selection or implementation, services or other related matters.
 - 3.2 CONTRACTOR shall notify Enrolled Affiliate in writing of the terms and conditions stated in Section 11.
4. This Agreement shall be effective from November 1, 2019 through October 31, 2021, unless terminated earlier (the "Term").
5. Hold Harmless/Indemnification:
 - 5.1 CONTRACTOR shall indemnify and hold harmless the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as Indemnitees) from any liability, action, claim or damage whatsoever, based or asserted upon any services, or acts or omissions, of CONTRACTOR, its

Licensing Solution Provider Agreement Number PSA-0001530

officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature. CONTRACTOR shall defend the Indemnitees at its sole expense including all costs and fees (including, but not limited, to attorney fees, cost of investigation, defense and settlements or awards) in any claim or action based upon such acts, omissions or services.

- 5.2 With respect to any action or claim subject to indemnification herein by CONTRACTOR, CONTRACTOR shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of COUNTY; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes CONTRACTOR indemnification to Indemnitees as set forth herein.
- 5.3 CONTRACTOR'S obligation hereunder shall be satisfied when CONTRACTOR has provided to COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action or claim involved.
6. Contractor Responsibilities: CONTRACTOR will offer the following services to each Enrolled Affiliate at no additional charge. It is the responsibility of the Enrolled Affiliate to determine which products and/or services, if any, meet their needs and communicate that to the CONTRACTOR.
 - 6.1 Provide reports showing year to date annual spend according to Enrolled Affiliate's specifications. Frequency will be determined by each Enrolled Affiliate (monthly, quarterly, etc.).
 - 6.2 Provide a short synopsis of why an amendment is needed and the ramification of each amendment to an enrollment at the time of such amendment.
 - 6.3 Provide an updated price list on an annual basis or when requested by Enrolled Affiliate.
7. CONTRACTOR's Microsoft Enterprise Agreement license subscription price attached hereto as Exhibit A and service rates attached hereto as Exhibit B.
8. CONTRACTOR's Microsoft Enterprise Agreement Participation Form attached hereto as Exhibit C and incorporated herein by reference.
9. Usage Reporting: CONTRACTOR will provide to COUNTY the Licensed Support Provider (LSP) Reporting of Active Enrollments to Master Microsoft Enterprise Agreement No. 8084445, Select Plus Agreement No. 7756479, Microsoft Premier, Unified, and MCS Support services, showing a list of enrollments by February 15th of each year. Forms shall be submitted electronically to MasterMicrosoftAdmin@rivco.org. A copy of the form is attached hereto as Exhibit D and incorporated herein by reference.
10. Administrative fees: CONTRACTOR will be charged .5% of the annual enrollment amount to leverage the Riverside County Master Microsoft Agreement No. 8084445, Select Plus Agreement No. 7756479, Microsoft Premier, Unified, and MCS Support services. This will be an annual fee, per enrollment inclusive of Affiliates Shadow Enrollments. Example: A three-year aggregated agreement with a contract amount of \$300K, divisible by three years will result in an LSP Participation Fee of \$500 annually (100K*.5%). RCIT will invoice the Awarded LSP annually based on the enrollments verified from the

Licensing Solution Provider Agreement Number PSA-0001530

"Reporting of Active Enrollments" list submitted by December 15th of each year. Payment is due to Riverside County Information Technology thirty (30) days from invoice date.

10.1 Riverside County Information Technology (RCIT) will invoice the CONTRACTOR annually based on the enrollments verified. Payment is due to RCIT within thirty (30) days of invoice date. The COUNTY will not accept credit as a form of payment.

10.2 Failure to meet the administrative fee requirements herein and submit fees on a timely basis may constitute grounds for immediate termination of this Agreement.

11. Contract Management: The contacts for this Agreement for COUNTY shall be both RCIT and Purchasing as listed below.

COUNTY Primary Contact:
Jim Smith
3450 14th Street
Riverside, CA 92501

COUNTY Secondary Contact:
Rick Hai
2980 Washington Street
Riverside, CA 92504

CONTRACTOR contact:
Shelly Bodine
20875 Crossroads Circle, Suite 1
Waukesha, WI 53186

11.1 Should Contract Management contact information change, the CONTRACTOR shall provide written notice with the updated information to the COUNTY no later than 10 business days after the change.

12. Termination:

12.1 COUNTY may terminate this Agreement without cause upon thirty (30) days written notice served upon the CONTRACTOR stating the extent and effective date of termination.

12.2 COUNTY may, upon five (5) days written notice terminate this Agreement for CONTRACTOR's default, if CONTRACTOR refuses or fails to comply with the terms of this Agreement or fails to make progress that may endanger performance and does not immediately cure such failure. In the event of such termination, the COUNTY may proceed with the work in any manner deemed proper by COUNTY.

12.3 CONTRACTOR's rights under this Agreement shall terminate (except for fees accrued prior to the date of termination) upon dishonesty or a willful or material breach of this Agreement by CONTRACTOR; or in the event of CONTRACTOR's unwillingness or inability for any reason whatsoever to perform the terms of this Agreement.

13. Conduct of Contractor:

13.1 The CONTRACTOR covenants that it presently has no interest, including, but not limited to, other projects or contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with CONTRACTOR's performance under this Agreement. The CONTRACTOR further covenants that no person or subcontractor having any such interest shall be employed or retained by CONTRACTOR under this Agreement. The CONTRACTOR agrees

Licensing Solution Provider Agreement Number PSA-0001530

to inform the COUNTY of all the CONTRACTOR's interests, if any, which are or may be perceived as incompatible with the COUNTY's interests.

- 13.2 The CONTRACTOR shall not, under circumstances which could be interpreted as an attempt to influence the recipient in the conduct of his/her duties, accept any gratuity or special favor from individuals or firms with whom the CONTRACTOR is doing business or proposing to do business, in accomplishing the work under this Agreement.
- 13.3 The CONTRACTOR or its employees shall not offer gifts, gratuity, favors, and entertainment directly or indirectly to COUNTY employees.
- 13.4 CONTRACTOR shall establish adequate procedures for self-monitoring and quality control and assurance to ensure proper performance under this Agreement; and shall permit a COUNTY representative or other regulatory official to monitor, assess, or evaluate CONTRACTOR's performance under this Agreement at any time, upon reasonable notice to the CONTRACTOR.

14. Independent Contractor/Employment Eligibility/Non-Discrimination:

- 14.1 The CONTRACTOR is, for purposes relating to this Agreement, an independent contractor and shall not be deemed an employee of the COUNTY. It is expressly understood and agreed that the CONTRACTOR (including its employees, agents, and subcontractors) shall in no event be entitled to any benefits to which COUNTY employees are entitled, including but not limited to overtime, any retirement benefits, worker's compensation benefits, and injury leave or other leave benefits. There shall be no employer-employee relationship between the parties; and CONTRACTOR shall hold COUNTY harmless from any and all claims that may be made against COUNTY based upon any contention by a third party that an employer-employee relationship exists by reason of this Agreement. It is further understood and agreed by the parties that CONTRACTOR in the performance of this Agreement is subject to the control or direction of COUNTY merely as to the results to be accomplished and not as to the means and methods for accomplishing the results.
- 14.2 CONTRACTOR warrants that it shall make its best effort to fully comply with all federal and state statutes and regulations regarding the employment of aliens and others and to ensure that employees performing work under this Agreement meet the citizenship or alien status requirement set forth in federal statutes and regulations. CONTRACTOR shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by federal or state statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. CONTRACTOR shall retain all such documentation for all covered employees, for the period prescribed by the law.
- 14.3 CONTRACTOR shall not discriminate in the provision of services, allocation of benefits, accommodation in facilities, or employment of personnel on the basis of ethnic group identification, race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex in the performance of this Agreement; and, to the extent they shall be found to be applicable hereto, shall comply with the provisions of the California Fair Employment and Housing Act (Gov. Code 12900 et. seq), the Federal Civil Rights Act of 1964

Licensing Solution Provider Agreement Number PSA-0001530

(P.L. 88-352), the Americans with Disabilities Act of 1990 (42 U.S.C. S1210 et seq.) and all other applicable laws or regulations.

15. Entire Agreement: This Agreement, including any attachments or exhibits, constitutes the entire agreement of the parties with respect to its subject matter and supersedes all prior and contemporaneous representations, proposals, discussions and communications, whether oral or in writing. This Agreement may be changed or modified only by a written amendment signed by authorized representatives of both parties.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute this Agreement.

COUNTY OF RIVERSIDE, a political
subdivision of the State of California

Software One, Inc., a Wisconsin corporation

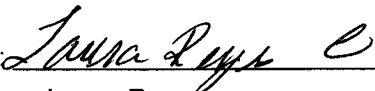
By: 
Kevin Jeffries, Chairman
Board of Supervisors

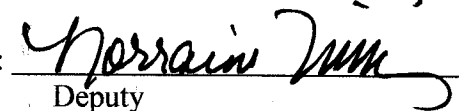
By: 
Margarita Apodaca
Operations Analyst

Dated: OCT 22 2019

Dated: 10/16/2019

ATTEST:
Kecia Harper
Clerk of the Board

By: 
Laura Reyes
Account Team Manager

By: 
Deputy

Dated: 10/16/2019

APPROVED AS TO FORM:
Gregory P. Priamos
County Counsel

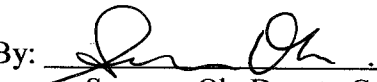
By: 
Susanna Oh, Deputy County Counsel

Exhibit A
Microsoft Enterprise license subscription and services

Line	Description	Price Level	Markup %
1	Enterprise Online Services** (including Full USLs, From SA USLs, Add-ons and Step Ups) M365 E3 and E5, Enterprise Mobility + Security E3 and E5, Office 365 Enterprise E1 or E3, Windows 10 Enterprise E3 or E5.	Level D Minus 2%	2.10
2	Enterprise Products Office 365 Pro Plus, Windows 10 Enterprise, Core CAL Suite, Enterprise CAL Suite.	Level D	2.10
3	Additional Products M365 F1, M365 E5 Compliance, M365 E5 Security, Office 365 Enterprise F1, Project Online, Visio Online Plan 1 or Plan 2, Dynamics 365, Azure, SQL Server, Windows Server, etc.	Level D	2.10
4	Server and Tools Product (applies to Server and Cloud Enrollments only) SharePoint Server, SQL Server, BizTalk Server, Visual Studio, Core Infrastructure Suites, etc.	Level D	2.10
5	All products for Select Plus Agreement No.7756479.		3.50
6	Microsoft Premier Support		2.10
7	Microsoft Unified Support Services		2.10
8	Microsoft Consulting Services		20.00

Licensing Solution Provider Agreement Number PSA-0001530

**Exhibit B
License Support Provider (LSP) service rates**

Line	Description	Certified Competency (Yes/No)	Hourly Rate
Data and Artificial Intelligent			
1	Build Intelligent Apps	Yes	\$175
2	Build Intelligent Agents	Yes	\$175
3	Machine Learning	Yes	\$175
4	Internet of Things	Yes	\$175
5	Globally distributed data	Yes	\$175
6	OSS Databases	Yes	\$175
7	Cloud Scale Analytics	Yes	\$175
8	Data Platform Modernization to Azure	Yes	\$175
9	Windows Server on Azure	Yes	\$175
10	Security & Management	Yes	\$175
11	Datacenter Migration	Yes	\$175
12	Modern Business Intelligence	Yes	\$175
Biz Apps			
1	Customer Service	No	\$175
2	Field Service	No	\$175
3	Marketing	No	\$175
4	Talent	No	\$175
5	Finance and Operations	No	\$175
6	Business Central	No	\$175
7	Power Apps	Yes	\$175
8	Power BI	Yes	\$175
Apps and Infrastructure			
1	Azure Stack	Yes	\$175
2	High Performance Compute	Yes	\$175
3	Cloud Native Apps using Serverless	Yes	\$175
4	Modernize Apps	Yes	\$175
5	SAP on Azure	Yes	\$175
6	Linux on Azure	Yes	\$175
7	Dev Ops	Yes	\$175
8	Business Continuity & Disaster Recovery	Yes	\$175
9	Windows Server on Azure	Yes	\$175
10	Security & Management	Yes	\$175
11	Datacenter Migration	Yes	\$175

Licensing Solution Provider Agreement Number PSA-0001530

**Exhibit B (cont.)
License Support Provider (LSP) service rates**

Line	Description	Certified Competency (Yes/No)	Hourly Rate
	Modern Workplace		
1	User Adoption & Change Management	Yes	\$175
2	Security	Yes	\$175
3	GDPR & Compliance	Yes	\$175
4	Teamwork	Yes	\$175
5	Calling & Meetings	Yes	\$175
6	Modern Desktop	Yes	\$175
7	Office 365 Migration Assistance	Yes	\$175
7a	Mail	Yes	\$175
7b	Teams	Yes	\$175
7c	SharePoint	Yes	\$175
7d	OneDrive	Yes	\$175

Exhibit C
Microsoft LSP Participation Form

DAVE ROGERS
Assistant Chief Executive Officer
Chief Information Officer

JIM SMITH
Chief Technology Officer



JENNIFER HILBER, ACIO
Enterprise Applications Bureau
GUSTAVO VAZQUEZ, ACIO
Converged Communications Bureau
Public Safety Enterprise Communications
GIL MEJIA, ACIO
Technology Services Bureau

Microsoft LSP Participation Form
(RFQ #RIVCO-2020-RFQ-0000048 Attachment 3)

Complete this form and return to: Attention: Rick Hai E-mail: RHai@rivco.org	Payment should be made to: Riverside County Information Technology 3450 14th Street, Fourth Floor Riverside, CA 92501 County of Riverside TIN #: 95-6000930
--	---

Company Name: Software One, Inc.

Name: Shelly Bodine

Title: SLED General Manager

Address: 20875 Crossroads Cir. STE 1

City: Waukesha, WI

Zip Code: 53186

Telephone #: 800-400-9852

Fax #: _____

Email: Shelly.Bodine@SoftwareONE.com

The County of Riverside is the host of the Microsoft Master Agreement No. 8084445. All questions regarding the products and licensing should be directed to Microsoft.

By signing below, I am agreeing to pay the participation fees for each enrollment that is established by leveraging the County of Riverside Master Agreement in accordance to the schedule referenced on RFQ #RIVCO-2020-RFQ-0000048 and any subsequent contracts and / or amendments.

By signing below, I also agree that all enrollments will be submitted to Microsoft direct, to report enrollment activity and comply to the payment schedule per RFQ #RIVCO-2020-RFQ-0000048 to Riverside County Information Technology.

Please reference the remittance information above for where to send the payment. Failure to comply may result in the award being rescinded.

Signature

9/16/2019

Date

Shelly Bodine

Printed Name

SLED General Manager

Title

DAVE ROGERS
Assistant Chief Executive Officer
Chief Information Officer

JIM SMITH
Chief Technology Officer



JENNIFER HILBER, ACIO
Enterprise Applications Bureau

GUSTAVO VAZQUEZ, ACIO
Converged Communications Bureau
Public Safety Enterprise Communications

GIL MEJIA, ACIO
Technology Services Bureau

Microsoft LSP Participation Form

(RFQ #RIVCO-2020-RFQ-0000048 Attachment 3)

Complete this form and return to:

Attention: Rick Hai
E-mail: RHai@rivco.org

Payment should be made to:

Riverside County Information Technology
3450 14th Street, Fourth Floor
Riverside, CA 92501

County of Riverside TIN #: 95-6000930

Company Name: Software One, Inc.

Name: Shelly Bodine

Title: SLED General Manager

Address: 20875 Crossroads Cir. STE 1

City: Waukesha, WI

Zip Code: 53186

Telephone #: 800-400-9852

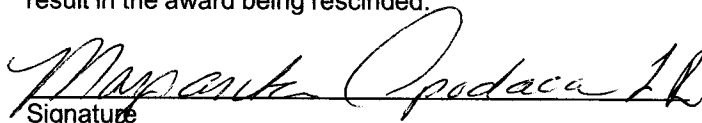
Fax #: _____ Email: Shelly.Bodine@SoftwareONE.com

The County of Riverside is the host of the Microsoft Master Agreement No. 8084445. All questions regarding the products and licensing should be directed to Microsoft.

By signing below, I am agreeing to pay the participation fees for each enrollment that is established by leveraging the County of Riverside Master Agreement in accordance to the schedule referenced on RFQ #RIVCO-2020-RFQ-0000048 and any subsequent contracts and / or amendments.

By signing below, I also agree that all enrollments will be submitted to Microsoft direct, to report enrollment activity and comply to the payment schedule per RFQ #RIVCO-2020-RFQ-0000048 to Riverside County Information Technology.

Please reference the remittance information above for where to send the payment. Failure to comply may result in the award being rescinded.


Signature

Margarita Apodaca

Printed Name

10/16/2019

Date

Operations Analyst

Title

Exhibit D
Microsoft LSP Reporting of Active Enrollments Form

LSP Name	Company name		Enrollment	Start Date:	End Date:	Annual Spend	Enrollment Contact:	Enrollment Contact Email:	Enrollment Contact Tel:
RIVCO	RIVCO-20800-00x-xx/xx								
Microsoft Agreement Numbers	01E69633, 01E73134, AND NEW								
Master Enrollment	Enrollment Number:	Enrollment Entity:		1/01/12	12/31/16	\$645,000.00	John Doe	John.Doe@riverside.org	951-555-1212
8084445	87654321	Riverside County Information Technology							

Exhibit E
Master Agreement

Attached include the followings:

- 1) Signature Form
- 2) Microsoft Enterprise Agreement
- 3) Microsoft Enterprise Agreement Amendment

Microsoft Document Headersheet

** This is for informational purposes only **

MSE#:

(MSLI
Tracking
Number)

5-0000004275258

Doc Type:

Signature Form

Do not modify the formatting or spacing of this Form above this text

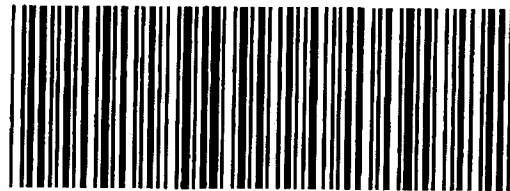
Subsidiary:

Country: **United States**

Account Manager Name / Alias:

LAR/LAD/ESA:

Insight Direct USA, Inc.



Program/Version

EA 6 2016

(Scanning Code)

ACCOUNT: County of Riverside

3

Outsourcer Name:

Business Agreement Number:

Master Agreement Number: **8084445**

Agreement Number:

Purchase Order Number:

Comments:

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Volume Licensing

Program Signature Form

MBA/MBSA number

Agreement number

808444S

004-kayleed-S-04

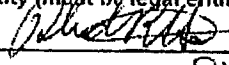
Note: Enter the applicable active numbers associated with the documents below. Microsoft requires the associated active number be indicated here, or listed below as new.

For the purposes of this form, "Customer" can mean the signing entity, Enrolled Affiliate, Government Partner, Institution, or other party entering into a volume licensing program agreement.

This signature form and all contract documents identified in the table below are entered into between the Customer and the Microsoft Affiliate signing, as of the effective date identified below.

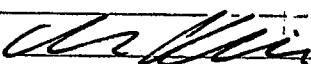
Contract Document	Number or Code
Enterprise Agreement	X20-10209
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
Amendment to Contract Documents	CTM-CPT-OPT-FWK (new)

By signing below, Customer and the Microsoft Affiliate agree that both parties (1) have received, read and understand the above contract documents, including any websites or documents incorporated by reference and any amendments and (2) agree to be bound by the terms of all such documents.

Customer	
Name of Entity (must be legal entity name)* County of Riverside	
Signature* 	
Printed First and Last Name* Richard R. Hai	
Printed Title Sr. Procurement Contract Specialist	
Signature Date* 08/22/2019	
Tax ID	

* indicates required field

FORM APPROVED COUNTY COUNSEL
BY  8/22/19
DATE
SUSANNA N. OH

Microsoft Affiliate	
Microsoft Corporation	
Signature  Printed First and Last Name Printed Title Signature Date (date Microsoft Affiliate countersigns)	 Microsoft Microsoft Corporation AUG 23 2019 Chance Krail Duly Authorized on behalf of Microsoft Corporation
Agreement Effective Date (may be different than Microsoft's signature date)	
8/23/2019	

Optional 2nd Customer signature or Outsourcer signature (if applicable)

Customer
Name of Entity (must be legal entity name)*
Signature*
Printed First and Last Name*
Printed Title
Signature Date*

* indicates required field

Outsourcer
Name of Entity (must be legal entity name)*
Signature*
Printed First and Last Name*
Printed Title
Signature Date*

* indicates required field

If Customer requires physical media, additional contacts, or is reporting multiple previous Enrollments, include the appropriate form(s) with this signature form.

After this signature form is signed by the Customer, send it and the Contract Documents to Customer's channel partner or Microsoft account manager, who must submit them to the following address. When the signature form is fully executed by Microsoft, Customer will receive a confirmation copy.

Microsoft Corporation
 Dept. 551, Volume Licensing
 6100 Neil Road, Suite 210
 Reno, Nevada 89511-1137
 USA

Microsoft Document Headersheet

** This is for informational purposes only **

MSE#:

(MSLI
Tracking
Number)

5-0000004275258

Doc Type:

[REDACTED] Agreement

Do not modify the formatting or spacing of this Form above this text

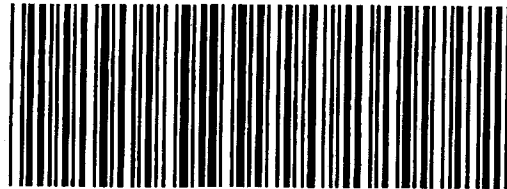
Subsidiary:

Country: United States

Account Manager Name / Alias:

LAR/LAD/ESA:

Insight Direct USA, Inc.



Program/Version

EA 6 2016

(Scanning Code)

ACCOUNT: County of Riverside

Outsourcer Name:

Business Agreement Number:

Master Agreement Number: **8084445**

Agreement Number:

Purchase Order Number:

15

Comments:

8/23/2019 9:42:31 PM

Enterprise Agreement**State and Local**

Not for Use with Microsoft Business Agreement or Microsoft Business and Services Agreement

This Microsoft Enterprise Agreement ("Agreement") is entered into between the entities identified on the signature form.

Effective date. The effective date of this Agreement is the earliest effective date of any Enrollment entered into under this Agreement or the date Microsoft accepts this Agreement, whichever is earlier.

This Agreement consists of (1) these Agreement terms and conditions, including any amendments and the signature form and all attachments identified therein, (2) the Product Terms applicable to Products licensed under this Agreement, (3) the Online Services Terms, (4) any Affiliate Enrollment entered into under this Agreement, and (5) any order submitted under this Agreement.

Please note: Documents referenced in this Agreement but not attached to the signature form may be found at <http://www.microsoft.com/licensing/contracts> and are incorporated in this Agreement by reference, including the Product Terms and Use Rights. These documents may contain additional terms and conditions for Products licensed under this Agreement and may be changed from time to time. Customer should review such documents carefully, both at the time of signing and periodically thereafter, and fully understand all terms and conditions applicable to Products licensed.

Terms and Conditions**1. Definitions.**

"Affiliate" means

- a. with regard to Customer,
 - (i) any government agency, department, office, instrumentality, division, unit or other entity of the state or local government that is supervised by or is part of Customer, or which supervises Customer or of which Customer is a part, or which is under common supervision with Customer;
 - (ii) any county, borough, commonwealth, city, municipality, town, township, special purpose district, or other similar type of governmental instrumentality established by the laws of Customer's state and located within Customer's state jurisdiction and geographic boundaries; and
 - (iii) any other entity in Customer's state expressly authorized by the laws of Customer's state to purchase under state contracts; provided that a state and its Affiliates shall not, for purposes of this definition, be considered to be Affiliates of the federal government and its Affiliates; and
- b. with regard to Microsoft, any legal entity that Microsoft owns, that owns Microsoft, or that is under common ownership with Microsoft.

"Customer" means the legal entity that has entered into this Agreement with Microsoft.

"Customer Data" means all data, including all text, sound, software, image, or video files that are provided to Microsoft by, or on behalf of, an Enrolled Affiliate and its Affiliates through use of Online Services.

"day" means a calendar day, except for references that specify "business day".

"Enrolled Affiliate" means an entity, either Customer or any one of Customer's Affiliates that has entered into an Enrollment under this Agreement.

"Enrollment" means the document that an Enrolled Affiliate submits under this Agreement to place orders for Products.

"Enterprise" means an Enrolled Affiliate and the Affiliates for which it is responsible and chooses on its Enrollment to include in its enterprise.

"Fixes" means Product fixes, modifications or enhancements, or their derivatives, that Microsoft either releases generally (such as Product service packs) or provides to Customer to address a specific issue.

"License" means the right to download, install, access and use a Product. For certain Products, a License may be available on a fixed term or subscription basis ("Subscription License"). Licenses for Online Services will be considered Subscription Licenses.

"Microsoft" means the Microsoft Affiliate that has entered into this Agreement or an Enrollment and its Affiliates, as appropriate.

"Online Services" means the Microsoft-hosted services identified as Online Services in the Product Terms.

"Online Services Terms" means the additional terms that apply to Customer's use of Online Services published on the Volume Licensing Site and updated from time to time.

"Product" means all products identified in the Product Terms, such as all Software, Online Services and other web-based services, including pre-release or beta versions.

"Product Terms" means the document that provides information about Microsoft Products and Professional Services available through volume licensing. The Product Terms document is published on the Volume Licensing Site and is updated from time to time.

"SLA" means Service Level Agreement, which specifies the minimum service level for Online Services and is published on the Volume Licensing Site.

"Software" means licensed copies of Microsoft software identified on the Product Terms. Software does not include Online Services, but Software may be part of an Online Service.

"Software Assurance" is an offering by Microsoft that provides new version rights and other benefits for Products as further described in the Product Terms.

"Trade Secret" means information that is not generally known or readily ascertainable to the public, has economic value as a result, and has been subject to reasonable steps under the circumstances to maintain its secrecy.

"use" or "run" means to copy, install, use, access, display, run or otherwise interact.

"Use Rights" means the use rights or terms of service for each Product published on the Volume Licensing Site and updated from time to time. The Use Rights supersede the terms of any end user license agreement that accompanies a Product. The Use Rights for Software are published by Microsoft in the Product Terms. The Use Rights for Online Services are published in the Online Services Terms.

"Volume Licensing Site" means <http://www.microsoft.com/licensing/contracts> or a successor site.

2. How the Enterprise program works.

- a. **General.** The Enterprise program consists of the terms and conditions on which an Enrolled Affiliate may acquire Product Licenses. Under the Enterprise program, Customer and its Affiliates may order Licenses for Products by entering into Enrollments.
- b. **Enrollments.** The Enterprise program gives Customer and/or its Affiliates the ability to enter into one or more Enrollments to order Products. Subscription Enrollments may be available for some of these Enrollments. Notwithstanding any other provision of this Agreement, only Enrolled Affiliates identified in an Enrollment will be responsible for complying with the terms of that Enrollment, including the terms of this Agreement incorporated by reference in that Enrollment.

- c. **Licenses.** The types of Licenses available are (1) Licenses obtained under Software Assurance (L&SA), and (2) Subscription Licenses. These License types, as well as additional License Types, are further described in the Product List.

3. **Licenses for Products.**

- a. **License Grant.** Microsoft grants the Enterprise a non-exclusive, worldwide and limited right to download, install and use software Products, and to access and use the Online Services, each in the quantity ordered under an Enrollment. The rights granted are subject to the terms of this Agreement, the Use Rights and the Product Terms. Microsoft reserves all rights not expressly granted in this Agreement.
- b. **Duration of Licenses.** Subscription Licenses and most Software Assurance rights are temporary and expire when the applicable Enrollment is terminated or expires, unless the Enrolled Affiliate exercises a buy-out option, which is available for some Subscription Licenses. Except as otherwise noted in the applicable Enrollment or Use Rights, all other Licenses become perpetual only when all payments for that License have been made and the initial Enrollment term has expired.
- c. **Applicable Use Rights.**
- (i) **Products (other than Online Services).** The Use Rights in effect on the effective date of the applicable Enrollment term will apply to Enterprise's use of the version of each Product that is current at the time. For future versions and new Products, the Use Rights in effect when those versions and Products are first released will apply. Changes Microsoft makes to the Use Rights for a particular version will not apply unless the Enrolled Affiliate chooses to have those changes apply. The Use Rights applicable to perpetual Licenses that were acquired under a previous agreement or Enrollment are determined by the Agreement or Enrollment under which they were acquired. Renewal of Software Assurance does not change which Use Rights apply to those Licenses.
- (ii) **Online Services.** For Online Services, the Use Rights in effect on the subscription start date will apply for the subscription term as defined in the Product Terms.
- d. **Downgrade rights.** Enrolled Affiliate may use an earlier version of a Product other than Online Services than the version that is current on the effective date of the Enrollment. For Licenses acquired in the current Enrollment term, the Use Rights for the current version apply to the use of the earlier version. If the earlier Product version includes features that are not in the new version, then the Use Rights applicable to the earlier version apply with respect to those features.
- e. **New Version Rights under Software Assurance.** Enrolled Affiliate must order and maintain continuous Software Assurance coverage for each License ordered. With Software Assurance coverage, Enterprise automatically has the right to use a new version of a licensed Product as soon as it is released, even if Enrolled Affiliate chooses not to use the new version immediately.
- (i) Except as otherwise permitted under an Enrollment, use of the new version will be subject to the new version's Use Rights.
- (ii) If the License for the earlier version of the Product is perpetual at the time the new version is released, the License for the new version will also be perpetual. Perpetual Licenses obtained through Software Assurance replace any perpetual Licenses for the earlier version.
- f. **License confirmation.** This Agreement, the applicable Enrollment, Enrolled Affiliate's order confirmation, and any documentation evidencing transfers of perpetual Licenses, together with proof of payment, will be Enrolled Affiliate's evidence of all Licenses obtained under an Enrollment.

- g. **Reorganizations, consolidations and privatizations.** If the number of Licenses covered by an Enrollment changes by more than ten percent as a result of (1) a reorganization, consolidation or privatization of an entity or an operating division, (2) a privatization of an Affiliate or an operating division of Enrolled Affiliate or any of its Affiliates, or (3) a consolidation including a merger with a third party that has an existing agreement or Enrollment, Microsoft will work with Enrolled Affiliate in good faith to determine how to accommodate its changed circumstances in the context of this Agreement.

4. Making copies of Products and re-imaging rights.

- a. **General.** Enrolled Affiliate may make as many copies of Products, as it needs to distribute them within the Enterprise. Copies must be true and complete (including copyright and trademark notices) from master copies obtained from a Microsoft approved fulfillment source. Enrolled Affiliate may use a third party to make these copies, but Enrolled Affiliate agrees it will be responsible for any third party's actions. Enrolled Affiliate agrees to make reasonable efforts to notify its employees, agents, and any other individuals who use the Products that the Products are licensed from Microsoft and subject to the terms of this Agreement.
- b. **Copies for training/evaluation and back-up.** For all Products other than Online Services, Enrolled Affiliate may: (1) use up to 20 complimentary copies of any licensed Product in a dedicated training facility on its premises for purposes of training on that particular Product, (2) use up to 10 complimentary copies of any Products for a 60-day evaluation period, and (3) use one complimentary copy of any licensed Product for back-up or archival purposes for each of its distinct geographic locations. Trials for Online Services may be available if specified in the Use Rights.
- c. **Right to re-image.** In certain cases, re-imaging is permitted using the Product media. If the Microsoft Product is licensed (1) from an original equipment manufacturer (OEM), (2) as a full packaged Product through a retail source, or (3) under another Microsoft program, then media provided under this Agreement may generally be used to create images for use in place of copies provided through that separate source. This right is conditional upon the following:
- (i) Separate Licenses must be acquired from the separate source for each Product that is re-imaged.
 - (ii) The Product, language, version, and components of the copies made must be identical to the Product, language, version, and all components of the copies they replace and the number of copies or instances of the re-imaged Product permitted remains the same.
 - (iii) Except for copies of an operating system and copies of Products licensed under another Microsoft program, the Product type (e.g., Upgrade or full License) re-imaged must be identical to the Product type licensed from the separate source.
 - (iv) Enrolled Affiliate must adhere to any Product-specific processes or requirements for re-imaging identified in the Product Terms.

Re-imaged Products remain subject to the terms and use rights of the License acquired from the separate source. This subsection does not create or extend any Microsoft warranty or support obligation.

5. Transferring and reassigning Licenses.

- a. **License transfers.** License transfers are not permitted, except that Customer or an Enrolled Affiliate may transfer only fully-paid perpetual Licenses to:
- (i) an Affiliate, or
 - (ii) a third party solely in connection with the transfer of hardware or employees to whom the Licenses have been assigned as part of (A) a privatization of an Affiliate or agency or of an

operating division of Enrolled Affiliate or an Affiliate. (B) a reorganization, or (C) a consolidation.

Upon such transfer, Customer or Enrolled Affiliate must uninstall and discontinue using the licensed Product and render any copies unusable.

- b. **Notification of License Transfer.** Enrolled Affiliate must notify Microsoft of a License transfer by completing a license transfer form, which can be obtained from <http://www.microsoft.com/licensing/contracts> and sending the completed form to Microsoft before the License transfer. No License transfer will be valid unless Enrolled Affiliate provides to the transferee, and the transferee accepts in writing, documents sufficient to enable the transferee to ascertain the scope, purpose and limitations of the rights granted by Microsoft under the licenses being transferred (including the applicable Use Rights, use and transfer restrictions, warranties and limitations of liability). Any License transfer not made in compliance with this section will be void.
- c. **Internal Assignment of Licenses and Software Assurance.** Licenses and Software Assurance must be assigned to a single user or device within the Enterprise. Licenses and Software Assurance may be reassigned within the Enterprise as described in the Use Rights.

6. **Term and termination.**

- a. **Term.** The term of this Agreement will be 36 full calendar months from the effective date unless terminated by either party as described below. Each Enrollment will have the term provided in that Enrollment.
- b. **Termination without cause.** Either party may terminate this Agreement, without cause, upon 60 days' written notice. In the event of termination, new Enrollments will not be accepted, but any existing Enrollment will continue for the term of such Enrollment and will continue to be governed by this Agreement.
- c. **Mid-term termination for non-appropriation of Funds.** Enrolled Affiliate may terminate this Agreement or an Enrollment without liability, penalty or further obligation to make payments if funds to make payments under the Agreement or Enrollment are not appropriated or allocated by the Enrolled Affiliate for such purpose.
- d. **Termination for cause.** Without limiting any other remedies it may have, either party may terminate an Enrollment if the other party materially breaches its obligations under this Agreement, including any obligation to submit orders or pay invoices. Except where the breach is by its nature not curable within 30 days, the terminating party must give the other party 30 days' notice of its intent to terminate and an opportunity to cure the breach.

If Microsoft gives such notice to an Enrolled Affiliate, Microsoft also will give Customer a copy of that notice and Customer agrees to help resolve the breach. If the breach affects other Enrollments and cannot be resolved between Microsoft and Enrolled Affiliate, together with Customer's help, within a reasonable period of time, Microsoft may terminate this Agreement and all Enrollments under it. If an Enrolled Affiliate ceases to be Customer's Affiliate, it must promptly notify Microsoft, and Microsoft may terminate the former Affiliate's Enrollment. If an Enrolled Affiliate terminates its Enrollment as a result of a breach by Microsoft, or if Microsoft terminates an Enrollment because Enrolled Affiliate ceases to be Customer's Affiliate, then Enrolled Affiliate will have the early termination rights described in the Enrollment.

- e. **Early termination.** If (1) an Enrolled Affiliate terminates its Enrollment as a result of a breach by Microsoft, or (2) if Microsoft terminates an Enrollment because the Enrolled Affiliate has ceased to be an Affiliate of Customer, or (3) Enrolled Affiliate terminates an Enrollment for non-appropriation of funds, or (4) Microsoft terminates an Enrollment for non-payment due to non-appropriation of funds, then the Enrolled Affiliate will have the following options:

- (i) It may immediately pay the total remaining amount due, including all installments, in which case, the Enrolled Affiliate will have perpetual rights for all Licenses it has ordered; or

(ii) It may pay only amounts due as of the termination date, in which case the Enrolled Affiliate will have perpetual Licenses for:

- 1) all copies of Products (including the latest version of Products ordered under SA coverage in the current term) for which payment has been made in full, and
- 2) the number of copies of Products it has ordered (including the latest version of Products ordered under Software Assurance coverage in current term) that is proportional to the total of installment payments paid versus total amounts due (paid and payable) if the early termination had not occurred.

(iii) In the case of early termination under subscription Enrollments, Enrolled Affiliate will have the following options:

- 1) For eligible Products, Enrolled Affiliate may obtain perpetual Licenses as described in the section of the Enrollment titled "Buy-out option," provided that Microsoft receives the buy-out order for those Licenses within 60 days after Enrolled Affiliate provides notice of termination.
- 2) In the event of a breach by Microsoft, if Customer chooses not to exercise a buy-out option, Microsoft will issue Enrolled Affiliate a credit for any amount paid in advance for Subscription Licenses that the Enterprise will not be able to use to do the termination of the Enrollment.

Nothing in this section shall affect perpetual License rights acquired either in a separate agreement or in a prior term of the terminated Enrollment.

f. **Effect of termination or expiration.** When an Enrollment expires or is terminated,

- (i) Enrolled Affiliate must order Licenses for all copies of Products it has run for which it has not previously submitted an order. Any and all unpaid payments for any order of any kind remain due and payable. Except as provided in the subsection titled "Early termination," all unpaid payments for Licenses immediately become due and payable.
- (ii) Enrolled Affiliate's right to Software Assurance benefits under this Agreement ends if it does not renew Software Assurance.

g. **Modification or termination of an Online Service for regulatory reasons.** Microsoft may modify or terminate an Online Service where there is any current or future government requirement or obligation that: (1) subjects Microsoft to any regulation or requirement not generally applicable to businesses operating in the jurisdiction; (2) presents a hardship for Microsoft to continue operating the Online Service without modification; and/or (3) causes Microsoft to believe these terms or the Online Service may conflict with any such requirement or obligation.

h. **Program updates.** Microsoft may make changes to this program that will make it necessary for Customer and its Enrolled Affiliates to enter into new agreements and Enrollments at the time of an Enrollment renewal.

7. Use, ownership, rights, and restrictions.

- a. **Products.** Unless otherwise specified in a supplemental agreement, use of any Product is governed by the Use Rights specific to each Product and version and by the terms of the applicable supplemental agreement.
- b. **Fixes.** Each Fix is licensed under the same terms as the Product to which it applies. If a Fix is not provided for a specific Product, any use rights Microsoft provides with the Fix will apply.
- c. **Non-Microsoft software and technology.** Enrolled Affiliate is solely responsible for any non-Microsoft software or technology that it installs or uses with the Products or Fixes.

- d. **Restrictions.** Enrolled Affiliate must not (and is not licensed to) (1) reverse engineer, decompile, or disassemble any Product or Fix; (2) install or use non-Microsoft software or technology in any way that would subject Microsoft's intellectual property or technology to any other license terms; or (3) work around any technical limitations in a Product or Fix or restrictions in Product documentation. Customer must not (and is not licensed to) (i) separate and run parts of a Product or Fix on more than one device, upgrade or downgrade parts of a Product or Fix at different times, or transfer parts of a Product or Fix separately; or (ii) distribute, sublicense, rent, lease, lend any Products or Fixes, in whole or in part, or use them to offer hosting services to a third party.
- e. **Reservation of rights.** Products and Fixes are protected by copyright and other intellectual property rights laws and international treaties. Microsoft reserves all rights not expressly granted in this agreement. No rights will be granted or implied by waiver or estoppel. Rights to access or use Software on a device do not give Customer any right to implement Microsoft patents or other Microsoft intellectual property in the device itself or in any other software or devices.

8. Confidentiality.

"Confidential Information" is non-public information that is designated "confidential" or that a reasonable person should understand is confidential, including Customer Data. Confidential Information does not include information that (a) becomes publicly available without a breach of this agreement, (b) the receiving party received lawfully from another source without a confidentiality obligation, (c) is independently developed, or (d) is a comment or suggestion volunteered about the other party's business, products or services.

Each party will take reasonable steps to protect the other's Confidential Information and will use the other party's Confidential Information only for purposes of the parties' business relationship. Neither party will disclose that Confidential Information to third parties, except to its employees, Affiliates, contractors, advisors and consultants ("Representatives") and then only on a need-to-know basis under nondisclosure obligations at least as protective as this agreement. Each party remains responsible for the use of the Confidential Information by its Representatives and, in the event of discovery of any unauthorized use or disclosure, must promptly notify the other party.

A party may disclose the other's Confidential Information if required by law, but only after it notifies the other party (if legally permissible) to enable the other party to seek a protective order.

Neither party is required to restrict work assignments of its Representatives who have had access to Confidential Information. Each party agrees that the use of information retained in Representatives' unaided memories in the development or deployment of the parties' respective products or services does not create liability under this Agreement or trade secret law, and each party agrees to limit what it discloses to the other accordingly.

These obligations apply (i) for Customer Data until it is deleted from the Online Services, and (ii) for all other Confidential Information, for a period of five years after a party receives the Confidential Information.

9. Privacy and compliance with laws.

- a. Enrolled Affiliate consents to the processing of personal information by Microsoft and its agents to facilitate the subject matter of this Agreement. Enrolled Affiliate will obtain all required consents from third parties under applicable privacy and data protection law before providing personal information to Microsoft.
- b. Personal information collected under this agreement (i) may be transferred, stored and processed in the United States or any other country in which Microsoft or its service providers maintain facilities and (ii) will be subject to the privacy terms specified in the Use Rights. Microsoft will abide by the requirements of European Economic Area and Swiss data protection

law regarding the collection, use, transfer, retention, and other processing of personal data from the European Economic Area and Switzerland.

- c. **U.S. export.** Products and Fixes are subject to U.S. export jurisdiction. Enrolled Affiliate must comply with all applicable international and national laws, including the U.S. Export Administration Regulations and International Traffic in Arms Regulations, and end-user, end use and destination restrictions issued by U.S. and other governments related to Microsoft products, services and technologies.

10. Warranties.

a. Limited warranties and remedies.

- (i) **Software.** Microsoft warrants that each version of the Software will perform substantially as described in the applicable Product documentation for one year from the date the Enterprise is first licensed for that version. If it does not and the Enterprise notifies Microsoft within the warranty term, then Microsoft will, at its option (1) return the price Enrolled Affiliate paid for the Software license, or (2) repair or replace the Software.
- (ii) **Online Services.** Microsoft warrants that each Online Service will perform in accordance with the applicable SLA during the Enterprise's use. The Enterprise's remedies for breach of this warranty are in the SLA.

The remedies above are the Enterprise's sole remedies for breach of the warranties in this section. Customer waives any breach of warranty claims not made during the warranty period.

- b. **Exclusions.** The warranties in this agreement do not apply to problems caused by accident, abuse, or use in a manner inconsistent with this Agreement, including failure to meet minimum system requirements. These warranties do not apply to free, trial, pre-release, or beta products, or to components of Products that Enrolled Affiliate is permitted to redistribute.
- c. **Disclaimer.** Except for the limited warranties above, Microsoft provides no other warranties or conditions and disclaims any other express, implied, or statutory warranties, including warranties of quality, title, non-infringement, merchantability, and fitness for a particular purpose.

11. Defense of third party claims.

The parties will defend each other against the third-party claims described in this section and will pay the amount of any resulting adverse final judgment or approved settlement, but only if the defending party is promptly notified in writing of the claim and has the right to control the defense and any settlement of it. The party being defended must provide the defending party with all requested assistance, information, and authority. The defending party will reimburse the other party for reasonable out-of-pocket expenses it incurs in providing assistance. This section describes the parties' sole remedies and entire liability for such claims.

- a. **By Microsoft.** Microsoft will defend Enrolled Affiliate against any third-party claim to the extent it alleges that a Product or Fix made available by Microsoft for a fee and used within the scope of the license granted (unmodified from the form provided by Microsoft and not combined with anything else) misappropriates a trade secret or directly infringes a patent, copyright, trademark or other proprietary right of a third party. If Microsoft is unable to resolve a claim of infringement under commercially reasonable terms, it may, at its option, either (1) modify or replace the Product or Fix with a functional equivalent; or (2) terminate Enrolled Affiliate's license and refund any prepaid license fees (less depreciation on a five-year, straight-line basis) for perpetual licenses and any amount paid for Online Services for any usage period after the termination date. Microsoft will not be liable for any claims or damages due to Enrolled Affiliate's continued use of a Product or Fix after being notified to stop due to a third-party claim.
- b. **By Enrolled Affiliate.** To the extent permitted by applicable law, Enrolled Affiliate will defend Microsoft against any third-party claim to the extent it alleges that: (1) any Customer Data or

non-Microsoft software hosted in an Online Service by Microsoft on Enrolled Affiliate's behalf misappropriates a trade secret or directly infringes a patent, copyright, trademark, or other proprietary right of a third party; or (2) Enrolled Affiliate's use of any Product or Fix, alone or in combination with anything else, violates the law or damages a third party.

12. Limitation of liability.

For each Product, each party's maximum, aggregate liability to the other under this Agreement is limited to direct damages finally awarded in an amount not to exceed the amounts Enrolled Affiliate was required to pay for the applicable Products during the term of this Agreement, subject to the following:

- a. **Online Services.** For Online Services, Microsoft's maximum liability to Enrolled Affiliate for any incident giving rise to a claim will not exceed the amount Enrolled Affiliate paid for the Online Service during the 12 months before the incident.
- b. **Free Products and Distributable Code.** For Products provided free of charge and code that Enrolled Affiliate is authorized to redistribute to third parties without separate payment to Microsoft, Microsoft's liability is limited to direct damages finally awarded up to US\$5,000.
- c. **Exclusions.** In no event will either party be liable for indirect, incidental, special, punitive, or consequential damages, or for loss of use, loss of business information, loss of revenue, or interruption of business, however caused or on any theory of liability.
- d. **Exceptions.** No limitation or exclusions will apply to liability arising out of either party's (1) confidentiality obligations (except for all liability related to Customer Data, which will remain subject to the limitations and exclusions above); (2) defense obligations; or (3) violation of the other party's intellectual property rights.

13. Verifying compliance.

- a. **Right to verify compliance.** Enrolled Affiliate must keep records relating to all use and distribution of Products by Enrolled Affiliate and its Affiliates. Microsoft has the right, at its expense, to the extent permitted by applicable law, to verify compliance with the Product's license terms. Enrolled Affiliate must promptly provide the independent auditor with any information the auditor reasonably requests in furtherance of the verification, including access to systems running the Products and evidence of Licenses for Products Enrolled Affiliate hosts, sublicenses, or distributes to third parties. Enrolled Affiliate agrees to complete Microsoft's self-audit process, which Microsoft may require as an alternative to a third party audit.
- b. **Remedies for non-compliance.** If verification or self-audit reveals any unlicensed use or distribution, then within 30 days, (1) Enrolled Affiliate must order sufficient Licenses to cover that use or distribution, and (2) if unlicensed use or distribution is 5% or more, Enrolled Affiliate must reimburse Microsoft for the cost Microsoft has incurred in verification and acquire the necessary additional licenses at 125% of the price based on the then-current price list and Enrolled Affiliate price level. The unlicensed use percentage is based on the total number of licenses purchased compared to actual install base. If there is no unlicensed use, Microsoft will not subject Enrolled Affiliate to another verification for at least one year. By exercising the rights and procedures described above, Microsoft does not waive its rights to enforce this Agreement or to protect its intellectual property by any other means permitted by law.
- c. **Verification process.** Microsoft will notify Enrolled Affiliate at least 30 days in advance of its intent to verify Enrolled Affiliate's compliance with the license terms for the Products Enrolled Affiliate and its Affiliates use or distribute. Microsoft will engage an independent auditor, which will be subject to a confidentiality obligation. Any information collected in the self-audit will be used solely for purposes of determining compliance. This verification will take place during normal business hours and in a manner that does not interfere unreasonably with Enrolled Affiliate's operations.

14. **Miscellaneous.**

- a. **Use of contractors.** Microsoft may use contractors to perform services, but will be responsible for their performance subject to the terms of this Agreement.
- b. **Microsoft as independent contractor.** The parties are independent contractors. Enrolled Affiliate and Microsoft each may develop products independently without using the other's Confidential Information.
- c. **Notices.** Notices to Microsoft must be sent to the address on the signature form. Notices must be in writing and will be treated as delivered on the date shown on the return receipt or on the courier or fax confirmation of delivery. Microsoft may provide information to Enrolled Affiliate about upcoming ordering deadlines, services, and subscription information in electronic form, including by email to contacts provided by Enrolled Affiliate. Emails will be treated as delivered on the transmission date.
- d. **Agreement not exclusive.** Customer is free to enter into agreements to license, use or promote non-Microsoft products.
- e. **Amendments.** Any amendment to this Agreement must be executed by both parties, except that Microsoft may change the Product Terms and the Use Rights from time to time in accordance with the terms of this Agreement. Any conflicting terms and conditions contained in an Enrolled Affiliate's purchase order will not apply. Microsoft may require Customer to sign a new agreement or an amendment before an Enrolled Affiliate enters into an Enrollment under this agreement.
- f. **Assignment.** Either party may assign this Agreement to an Affiliate, but must notify the other party in writing of the assignment. Any other proposed assignment must be approved by the non-assigning party in writing. Assignment will not relieve the assigning party of its obligations under the assigned agreement. Any attempted assignment without required approval will be void.
- g. **Applicable law; dispute resolution.** The terms of this Agreement will be governed by the laws of Customer's state, without giving effect to its conflict of laws. Disputes relating to this Agreement will be subject to applicable dispute resolution laws of Customer's state.
- h. **Severability.** If any provision in this agreement is held to be unenforceable, the balance of the agreement will remain in full force and effect.
- i. **Waiver.** Failure to enforce any provision of this agreement will not constitute a waiver. Any waiver must be in writing and signed by the waiving party.
- j. **No third-party beneficiaries.** This Agreement does not create any third-party beneficiary rights.
- k. **Survival.** All provisions survive termination or expiration of this Agreement except those requiring performance only during the term of the Agreement.
- l. **Management and Reporting.** Customer and/or Enrolled Affiliate may manage account details (e.g., contacts, orders, Licenses, software downloads) on Microsoft's Volume Licensing Service Center ("VLSC") web site (or successor site) at: <https://www.microsoft.com/licensing/servicecenter>. Upon the effective date of this Agreement and any Enrollments, the contact(s) identified for this purpose will be provided access to this site and may authorize additional users and contacts.
- m. **Order of precedence.** In the case of a conflict between any documents in this Agreement that is not expressly resolved in those documents, their terms will control in the following order from highest to lowest priority: (1) this Enterprise Agreement, (2) any Enrollment, (3) the Product Terms, (4) the Online Services Terms, (5) orders submitted under this Agreement, and (6) any other documents in this Agreement. Terms in an amendment control over the amended document and any prior amendments concerning the same subject matter.

- n. **Free Products.** It is Microsoft's intent that the terms of this Agreement and the Use Rights be in compliance with all applicable federal law and regulations. Any free Product provided to Enrolled Affiliate is for the sole use and benefit of the Enrolled Affiliate, and is not provided for use by or personal benefit of any specific government employee.
- o. **Voluntary Product Accessibility Templates.** Microsoft supports the government's obligation to provide accessible technologies to its citizens with disabilities as required by Section 508 of the Rehabilitation Act of 1973, and its state law counterparts. The Voluntary Product Accessibility Templates ("VPATs") for the Microsoft technologies used in providing the Online Services can be found at Microsoft's VPAT page. Further information regarding Microsoft's commitment to accessibility can be found at <http://www.microsoft.com/enable>.
- p. **Natural disaster.** In the event of a "natural disaster," Microsoft may provide additional assistance or rights by posting them on <http://www.microsoft.com> at such time.
- q. **Copyright violation.** Except as set forth in the section above entitled "Transferring and reassigning Licenses", the Enrolled Affiliate agrees to pay for, and comply with the terms of this Agreement and the Use Rights, for the Products it uses. Except to the extent Enrolled Affiliate is licensed under this Agreement, it will be responsible for its breach of this contract and violation of Microsoft's copyright in the Products, including payment of License fees specified in this Agreement for unlicensed use.

Supplemental Contact Information Form

This form can be used in combination with MBSA, Agreement, and Enrollment/Registration. However, a separate form must be submitted for each enrollment/registration, when more than one is submitted on a signature form. For the purposes of this form, "entity" can mean the signing entity, Customer, Enrolled Affiliate, Government Partner, Institution, or other party entering into a volume licensing program agreement. Primary and Notices contacts in this form will not apply to enrollments or registrations.

This form applies to:

- ☐ MBSA
☒ Agreement
☐ Enrollment/Affiliate Registration Form

Insert primary entity name if more than one Enrollment/Registration Form is submitted

Contact information.

Each party will notify the other in writing if any of the information in the following contact information page(s) changes. The asterisks (*) indicate required fields; if the entity chooses to designate other contact types, the same required fields must be completed for each section. By providing contact information, entity consents to its use for purposes of administering the Enrollment by Microsoft and other parties that help Microsoft administer this Enrollment. The personal information provided in connection with this agreement will be used and protected according to the privacy statement available at <https://licensing.microsoft.com>.

1. Additional notices contact.

This contact receives all notices that are sent from Microsoft. No online access is granted to this individual.

Name of entity* County of Riverside
Contact name*: First Regina Last Funderburk
Contact email address* RFunderburk@rivco.org
Street address* 3450 14th Street, 4th Floor
City* Riverside State/Province* California Postal code* 92501-3861
Country* USA
Phone* 951-955-2265 Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

2. Software Assurance manager.

This contact will receive online permissions to manage the Software Assurance benefits under the Enrollment or Registration.

Name of entity* County of Riverside
Contact name*: First Regina Last Funderburk
Contact email address* RFunderburk@rivco.org
Street address* 3450 14th Street, 4th Floor
City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-2265 Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

3. *Subscriptions manager.*

This contact will assign MSDN, Expression, and TechNet Plus subscription licenses to the individual subscribers under this Enrollment or Registration. Assignment of the subscription licenses is necessary for access to any of the online benefits, such as subscription downloads. This contact will also manage any complimentary or additional media purchases related to these subscriptions.

Name of entity* County of Riverside

Contact name*: First Regina Last Funderburk

Contact email address* RFunderburk@rivco.org

Street address* 3450 14th Street, 4th Floor

City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-2265 Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

4. *Online services manager.*

This contact will be provided online permissions to manage the online services ordered under the Enrollment or Registration.

Name of entity* County of Riverside

Contact name*: First Luis Last Flores

Contact email address* LFFlores@rivco.org

Street address* 3450 14th Street, 4th Floor

City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-8114 Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

5. *Customer Support Manager (CSM).*

This person is designated as the Customer Support Manager (CSM) for support-related activities.

Name of entity* County of Riverside

Contact name*: First Luis Last Flores

Contact email address* LFFlores@rivco.org

Street address* 3450 14th Street, 4th Floor

City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-8114 Fax

6. *Primary contact information.*

An individual from inside the organization must serve as the primary contact. This contact receives online administrator permissions and may grant online access to others. This contact also receives all notices unless Microsoft is provided written notice of a change.

Name of entity* County of Riverside

Contact name*: First Jim Last Smith
Contact email address* jimsmith@rivco.org
Street address* 3450 14th Street, 4th Floor
City* Riverside State/Province* CA Postal code* 92501-3861
Country* US
Phone* 951-231-5909 Fax

7. Notices contact and online administrator information.

This individual receives online administrator permissions and may grant online access to others. This contact also receives all notices.

☒ Same as primary contact

Name of entity*

Contact name*: First Last

Contact email address*

Street address*

City* State/Province* Postal code*

Country*

Phone* Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

Microsoft Document Headersheet

** This is for informational purposes only **

MSE#:

(MSLI
Tracking
Number)

5-0000004275258

Doc Type:

Amendments

Do not modify the formatting or spacing of this Form above this text

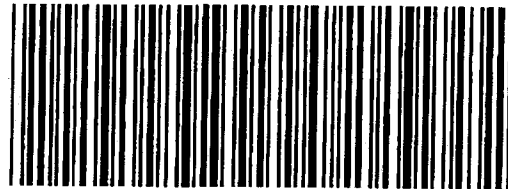
Subsidiary:

Country: **United States**

Account Manager Name / Alias:

LAR/LAD/ESA:

Insight Direct USA, Inc.



Program/Version

EA 6 2016

(Scanning Code)

ACCOUNT: County of Riverside

Outsourcer Name:

Business Agreement Number:

Master Agreement Number: **8084445**

Agreement Number:

Purchase Order Number:

3

Comments:

8/23/2019 9:42:40 PM



Amendment to Contract Documents

Agreement Number

8084445

004-kayleed-S-04

This amendment ("Amendment") is entered into between the parties identified on the attached program signature form. It amends the Enrollment or Agreement identified above. All terms used but not defined in this Amendment will have the same meanings provided in that Enrollment or Agreement.

Enterprise Agreement
Custom Terms CTM

1. Section 6a, "Term", is hereby amended and restated as follows:
 - a. **Term.** The term of this Agreement will remain in effect unless terminated by either party as described below. Each Enrollment will have the term provided in that Enrollment.
2. The pricing that Microsoft will offer Enrolled Affiliate's Reseller for Enrollments effective between November 1, 2019 through October 31, 2021, and that will apply for the entire initial term of such Enrollments, is as follows:

Product	Price Level	Examples include but are not limited to the following*:
Enterprise Online Services** (including Full USLs, From SA USLs, Add-ons and Step Ups)	Level D minus 2%	M365 E3 and E5, Enterprise Mobility + Security E3 and E5, Office 365 Enterprise E1 or E3, Windows 10 Enterprise E3 or E5
Enterprise Products	Level D	Office 365 Pro Plus, Windows 10 Enterprise, Core CAL Suite, Enterprise CAL Suite
Additional Products	Level D	M365 F1, M365 E5 Compliance, M365 E5 Security, Office 365 Enterprise F1, Project Online, Visio Online Plan 1 or Plan 2, Dynamics 365, Azure, SQL Server, Windows Server, etc.
Server and Tools Product (applies to Server and Cloud Enrollments only)	Level D	SharePoint Server, SQL Server, BizTalk Server, Visual Studio, Core Infrastructure Suites, etc.

*The examples include online services that are available in either the commercial or government cloud offerings.

**Qualifying Enterprise Online Services are identified in the Product Terms with the cell value of "EO" in the tables for "Program Availability". The scope of Enterprise Online Services is subject to change as Enterprise Online Services are added, updated/revised or removed from the Enterprise program offering.

Exclusions apply to the additional 2% discount on Enterprise Online Services as follows:

- The price list month that applies to an order is not a factor in determining whether the additional 2% discount on Enterprise Online Services may be applied to an order. The only applicable factor is the effective date of the Enrollment.
- The discount does not apply to any extensions of the initial Term or renewal Enrollments.
- The discount does not apply to any promotional SKUs. Enrolled Affiliate is entitled to the lower of the promotional price or discounted price.

The price level that applies to Enrollments effective on or after November 1, 2021 is Level D for all Products.

The Reseller and the Enrolled Affiliate will determine the Enrolled Affiliate's actual price and payment terms.

Except for changes made by this Amendment, the Enrollment or Agreement identified above remains unchanged and in full force and effect. If there is any conflict between any provision in this Amendment and any provision in the Enrollment or Agreement identified above, this Amendment shall control.

This Amendment must be attached to a signature form to be valid.

Microsoft Internal Use Only:

Riverside County EA Amend 8.7.docx	CTM	CTM-CPT-OPT-FWK	BD
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Licensing Solution Provider Agreement Number PSA-0001531

to inform the COUNTY of all the CONTRACTOR's interests, if any, which are or may be perceived as incompatible with the COUNTY's interests.

- 13.2 The CONTRACTOR shall not, under circumstances which could be interpreted as an attempt to influence the recipient in the conduct of his/her duties, accept any gratuity or special favor from individuals or firms with whom the CONTRACTOR is doing business or proposing to do business, in accomplishing the work under this Agreement.
- 13.3 The CONTRACTOR or its employees shall not offer gifts, gratuity, favors, and entertainment directly or indirectly to COUNTY employees.
- 13.4 CONTRACTOR shall establish adequate procedures for self-monitoring and quality control and assurance to ensure proper performance under this Agreement; and shall permit a COUNTY representative or other regulatory official to monitor, assess, or evaluate CONTRACTOR's performance under this Agreement at any time, upon reasonable notice to the CONTRACTOR.

14. Independent Contractor/Employment Eligibility/Non-Discrimination:

- 14.1 The CONTRACTOR is, for purposes relating to this Agreement, an independent contractor and shall not be deemed an employee of the COUNTY. It is expressly understood and agreed that the CONTRACTOR (including its employees, agents, and subcontractors) shall in no event be entitled to any benefits to which COUNTY employees are entitled, including but not limited to overtime, any retirement benefits, worker's compensation benefits, and injury leave or other leave benefits. There shall be no employer-employee relationship between the parties; and CONTRACTOR shall hold COUNTY harmless from any and all claims that may be made against COUNTY based upon any contention by a third party that an employer-employee relationship exists by reason of this Agreement. It is further understood and agreed by the parties that CONTRACTOR in the performance of this Agreement is subject to the control or direction of COUNTY merely as to the results to be accomplished and not as to the means and methods for accomplishing the results.
- 14.2 CONTRACTOR warrants that it shall make its best effort to fully comply with all federal and state statutes and regulations regarding the employment of aliens and others and to ensure that employees performing work under this Agreement meet the citizenship or alien status requirement set forth in federal statutes and regulations. CONTRACTOR shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by federal or state statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. CONTRACTOR shall retain all such documentation for all covered employees, for the period prescribed by the law.
- 14.3 CONTRACTOR shall not discriminate in the provision of services, allocation of benefits, accommodation in facilities, or employment of personnel on the basis of ethnic group identification, race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex in the performance of this Agreement; and, to the extent they shall be found to be applicable hereto, shall comply with the provisions of the California Fair Employment and Housing Act (Gov. Code 12900 et. seq), the Federal Civil Rights Act of 1964

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"Reporting of Active Enrollments" list submitted by December 15th of each year. Payment is due to Riverside County Information Technology thirty (30) days from invoice date.

10.1 Riverside County Information Technology (RCIT) will invoice the CONTRACTOR annually based on the enrollments verified. Payment is due to RCIT within thirty (30) days of invoice date. The COUNTY will not accept credit as a form of payment.

10.2 Failure to meet the administrative fee requirements herein and submit fees on a timely basis may constitute grounds for immediate termination of this Agreement.

11. Contract Management: The contacts for this Agreement for COUNTY shall be both RCIT and Purchasing as listed below.

COUNTY Primary Contact:
Jim Smith
3450 14th Street
Riverside, CA 92501

COUNTY Secondary Contact:
Rick Hai
2980 Washington Street
Riverside, CA 92504

CONTRACTOR contact:
Imran Yunus
1102 15th St. SW, Suite 102
Auburn, WA 98001

11.1 Should Contract Management contact information change, the CONTRACTOR shall provide written notice with the updated information to the COUNTY no later than 10 business days after the change.

12. Termination:

12.1 COUNTY may terminate this Agreement without cause upon thirty (30) days written notice served upon the CONTRACTOR stating the extent and effective date of termination.

12.2 COUNTY may, upon five (5) days written notice terminate this Agreement for CONTRACTOR's default, if CONTRACTOR refuses or fails to comply with the terms of this Agreement or fails to make progress that may endanger performance and does not immediately cure such failure. In the event of such termination, the COUNTY may proceed with the work in any manner deemed proper by COUNTY.

12.3 CONTRACTOR's rights under this Agreement shall terminate (except for fees accrued prior to the date of termination) upon dishonesty or a willful or material breach of this Agreement by CONTRACTOR; or in the event of CONTRACTOR's unwillingness or inability for any reason whatsoever to perform the terms of this Agreement.

13. Conduct of Contractor:

13.1 The CONTRACTOR covenants that it presently has no interest, including, but not limited to, other projects or contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with CONTRACTOR's performance under this Agreement. The CONTRACTOR further covenants that no person or subcontractor having any such interest shall be employed or retained by CONTRACTOR under this Agreement. The CONTRACTOR agrees

Licensing Solution Provider Agreement Number PSA-0001531

officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature. CONTRACTOR shall defend the Indemnitees at its sole expense including all costs and fees (including, but not limited, to attorney fees, cost of investigation, defense and settlements or awards) in any claim or action based upon such acts, omissions or services.

- 5.2 With respect to any action or claim subject to indemnification herein by CONTRACTOR, CONTRACTOR shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of COUNTY; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes CONTRACTOR indemnification to Indemnitees as set forth herein.
- 5.3 CONTRACTOR'S obligation hereunder shall be satisfied when CONTRACTOR has provided to COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action or claim involved.
6. Contractor Responsibilities: CONTRACTOR will offer the following services to each Enrolled Affiliate at no additional charge. It is the responsibility of the Enrolled Affiliate to determine which products and/or services, if any, meet their needs and communicate that to the CONTRACTOR.
 - 6.1 Provide reports showing year to date annual spend according to Enrolled Affiliate's specifications. Frequency will be determined by each Enrolled Affiliate (monthly, quarterly, etc.).
 - 6.2 Provide a short synopsis of why an amendment is needed and the ramification of each amendment to an enrollment at the time of such amendment.
 - 6.3 Provide an updated price list on an annual basis or when requested by Enrolled Affiliate.
7. CONTRACTOR's Microsoft Enterprise Agreement license subscription price attached hereto as Exhibit A and service rates attached hereto as Exhibit B.
8. CONTRACTOR's Microsoft Enterprise Agreement Participation Form attached hereto as Exhibit C and incorporated herein by reference.
9. Usage Reporting: CONTRACTOR will provide to COUNTY the Licensed Support Provider (LSP) Reporting of Active Enrollments to Master Microsoft Enterprise Agreement No. 8084445, Select Plus Agreement No. 7756479, Microsoft Premier, Unified, and MCS Support services, showing a list of enrollments by February 15th of each year. Forms shall be submitted electronically to MasterMicrosoftAdmin@rivcoit.org. A copy of the form is attached hereto as Exhibit D and incorporated herein by reference.
10. Administrative fees: CONTRACTOR will be charged .5% of the annual enrollment amount to leverage the Riverside County Master Microsoft Agreement No. 8084445, Select Plus Agreement No. 7756479, Microsoft Premier, Unified, and MCS Support services. This will be an annual fee, per enrollment inclusive of Affiliates Shadow Enrollments. Example: A three-year aggregated agreement with a contract amount of \$300K, divisible by three years will result in an LSP Participation Fee of \$500 annually (100K*.5%). RCIT will invoice the Awarded LSP annually based on the enrollments verified from the

Licensing Solution Provider Agreement Number PSA-0001531

This Licensing Solution Provider Agreement is made and entered into this 29th day of October 2019, by and between Zones, LLC., a Washington limited liability company ("CONTRACTOR"), and the COUNTY OF RIVERSIDE, a political subdivision of the State of California, ("COUNTY").

WHEREAS, COUNTY and Microsoft Corporation ("Microsoft") have entered into that certain Microsoft Enterprise Agreement (Master Agreement No. 8084445; the "Master Agreement"), effective August 23, 2019, under which COUNTY has the ability to enter into one or more enrollments to order certain Microsoft product licenses;

WHEREAS, CONTRACTOR desires to provide support to COUNTY and its Enrolled Affiliates (as defined in the Master Agreement) for said licenses under this Agreement and hereby represents that it has the skills, experience, and knowledge necessary to perform under this Agreement; and

WHEREAS, COUNTY desires to accept CONTRACTOR's services under this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

1. This Agreement covers all enrollments for all products licensed under the Master Agreement. All terms and conditions of the Master Agreement, attached as Exhibit E of this Agreement and incorporated by reference, shall apply to the purchase of related products and services.
2. This Agreement is available for use by all government entities within the State of California (an "Enrolled Affiliate") for the duration of the Term (defined below in section 4). Enrollment documents will contain the terms and conditions specific to each entity.
3. CONTRACTOR agrees to extend the same pricing, terms, and conditions as stated in this agreement to each and every government entity in the State of California. Terms and conditions are governed by this Agreement, the Master Agreement, and the applicable enrollment documents for each entity. Entities shall make purchases in their own name, make direct payment to CONTRACTOR, and be liable directly to CONTRACTOR for all obligations.
 - 3.1 COUNTY shall in no way be responsible to CONTRACTOR for Enrolled Affiliates' purchases and obligations. COUNTY shall in no way be responsible to other entities for their purchases or any acts or omissions of CONTRACTOR, including but not limited to product selection or implementation, services or other related matters.
 - 3.2 CONTRACTOR shall notify Enrolled Affiliate in writing of the terms and conditions stated in Section 11.
4. This Agreement shall be effective from November 1, 2019 through October 31, 2021, unless terminated earlier (the "Term").
5. Hold Harmless/Indemnification:
 - 5.1 CONTRACTOR shall indemnify and hold harmless the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as Indemnitees) from any liability, action, claim or damage whatsoever, based or asserted upon any services, or acts or omissions, of CONTRACTOR, its

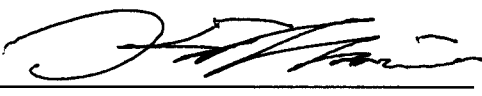
Licensing Solution Provider Agreement Number PSA-0001531

(P.L. 88-352), the Americans with Disabilities Act of 1990 (42 U.S.C. S1210 et seq.) and all other applicable laws or regulations.

15. Entire Agreement: This Agreement, including any attachments or exhibits, constitutes the entire agreement of the parties with respect to its subject matter and supersedes all prior and contemporaneous representations, proposals, discussions and communications, whether oral or in writing. This Agreement may be changed or modified only by a written amendment signed by authorized representatives of both parties.

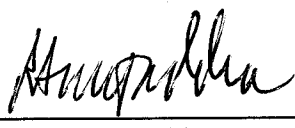
IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute this Agreement.

COUNTY OF RIVERSIDE, a political
subdivision of the State of California

By: 
Kevin Jeffries, Chairman
Board of Supervisors

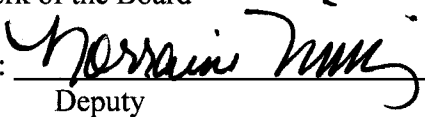
Dated: OCT 22 2019

Zones, LLC, a Washington limited liability company

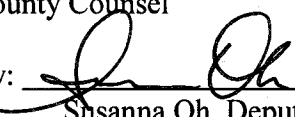
By: 
Ronald McFadden
Senior Vice President and Chief Financial Officer

Dated: 10/22/2019

ATTEST:
Kecia Harper
Clerk of the Board

By: 
Deputy

APPROVED AS TO FORM:
Gregory P. Priamos
County Counsel

By: 
Susanna Oh, Deputy County Counsel

Licensing Solution Provider Agreement Number PSA-0001531

Exhibit A
Microsoft Enterprise license subscription and services

Line	Description	Price Level	Markup %
1	Enterprise Online Services** (including Full USLs, From SA USLs, Add-ons and Step Ups) M365 E3 and E5, Enterprise Mobility + Security E3 and E5, Office 365 Enterprise E1 or E3, Windows 10 Enterprise E3 or E5.	Level D Minus 2%	2.00
2	Enterprise Products Office 365 Pro Plus, Windows 10 Enterprise, Core CAL Suite, Enterprise CAL Suite.	Level D	2.00
3	Additional Products M365 F1, M365 E5 Compliance, M365 E5 Security, Office 365 Enterprise F1, Project Online, Visio Online Plan 1 or Plan 2, Dynamics 365, Azure, SQL Server, Windows Server, etc.	Level D	2.00
4	Server and Tools Product (applies to Server and Cloud Enrollments only) SharePoint Server, SQL Server, BizTalk Server, Visual Studio, Core Infrastructure Suites, etc.	Level D	2.00
5	All products for Select Plus Agreement No.7756479.		2.00
6	Microsoft Premier Support		2.00
7	Microsoft Unified Support Services		2.00
8	Microsoft Consulting Services		2.00

Licensing Solution Provider Agreement Number PSA-0001531

**Exhibit B
License Support Provider (LSP) service rates**

Line	Description	Certified Competency (Yes/No)	Hourly Rate
	Data and Artificial Intelligent		
1	Build Intelligent Apps	Yes	\$170
2	Build Intelligent Agents	No	\$0
3	Machine Learning	Yes	\$170
4	Internet of Things	Yes	\$170
5	Globally distributed data	No	\$0
6	OSS Databases	No	\$0
7	Cloud Scale Analytics	No	\$0
8	Data Platform Modernization to Azure	Yes	\$170
9	Windows Server on Azure	Yes	\$170
10	Security & Management	Yes	\$195
11	Datacenter Migration	Yes	\$195
12	Modern Business Intelligence	Yes	\$170
	Biz Apps		
1	Customer Service	Yes	\$170
2	Field Service	Yes	\$170
3	Marketing	Yes	\$170
4	Talent	Yes	\$170
5	Finance and Operations	Yes	\$170
6	Business Central	No	\$0
7	Power Apps	Yes	\$170
8	Power BI	Yes	\$170
	Apps and Infrastructure		
1	Azure Stack	Yes	\$170
2	High Performance Compute	Yes	\$170
3	Cloud Native Apps using Serverless	Yes	\$170
4	Modernize Apps	Yes	\$170
5	SAP on Azure	No	\$0
6	Linux on Azure	No	\$0
7	Dev Ops	Yes	\$170
8	Business Continuity & Disaster Recovery	Yes	\$170
9	Windows Server on Azure	Yes	\$170
10	Security & Management	Yes	\$170
11	Datacenter Migration	Yes	\$170

Licensing Solution Provider Agreement Number PSA-0001531

**Exhibit B (cont.)
License Support Provider (LSP) service rates**

Line	Description	Certified Competency (Yes/No)	Hourly Rate
	Modern Workplace		
1	User Adoption & Change Management	Yes	\$170
2	Security	Yes	\$170
3	GDPR & Compliance	Yes	\$170
4	Teamwork	Yes	\$170
5	Calling & Meetings	Yes	\$170
6	Modern Desktop	Yes	\$170
7	Office 365 Migration Assistance	Yes	\$170
7a	Mail	Yes	\$170
7b	Teams	Yes	\$170
7c	SharePoint	Yes	\$170
7d	OneDrive	Yes	\$170

Licensing Solution Provider Agreement Number PSA-0001531

Exhibit C
Microsoft LSP Participation Form

DAVE ROGERS
Assistant Chief Executive Officer
Chief Information Officer

JIM SMITH
Chief Technology Officer



JENNIFER HILDER, ACO
Enterprise Applications Bureau

GUSTAVO VAZQUEZ, ACO
Converged Communications Bureau
Public Safety Enterprise Communications

GIL MEJIA, ACO
Technology Services Bureau

Microsoft LSP Participation Form
(RFQ #RIVCO-2020-RFQ-0000048 Attachment 3)

Complete this form and return to:

Attention: Rick Hai
E-mail: RHai@rivco.org

Payment should be made to:
Riverside County Information Technology
3450 14th Street, Fourth Floor
Riverside, CA 92501

County of Riverside TIN #: 95-6000930

Company Name: Zones, LLC

Name: Imran Yunus

Title: VP Sales

Address: 13915 Cerritos Corporate Drive, Suite A

City: Cerritos Zip Code: 90703 Telephone #: 310-766-0124

Fax #: 253-288-6795 Email: PublicSector@zones.com

The County of Riverside is the host of the Microsoft Master Agreement No. 8084445. All questions regarding the products and licensing should be directed to Microsoft.

By signing below, I am agreeing to pay the participation fees for each enrollment that is established by leveraging the County of Riverside Master Agreement in accordance to the schedule referenced on RFQ #RIVCO-2020-RFQ-0000048 and any subsequent contracts and / or amendments.

By signing below, I also agree that all enrollments will be submitted to Microsoft direct, to report enrollment activity and comply to the payment schedule per RFQ #RIVCO-2020-RFQ-0000048 to Riverside County Information Technology.

Please reference the remittance information above for where to send the payment. Failure to comply may result in the award being rescinded.


Jon Bailey (Sep 18, 2019)

Signature

Jon Bailey

Printed Name

Sep 18, 2019

Date

VP, Business & Legal Affairs

Title

Licensing Solution Provider Agreement Number PSA-0001531

**Exhibit D
Microsoft LSP Reporting of Active Enrollments Form**

LSP Name	<i>Company name</i>							
RIVCO Contract ID	<i>RIVCO-20800-00x-xx/xx</i>							
Microsoft Agreement Numbers	01E69633, 01E73134, AND NEW							
Master Enrollment	Enrollment Number:	Enrollment Entity:	Start Date:	End Date:	Annual Spend	Enrollment Contact:	Enrollment Contact Email:	Enrollment Contact Tel:
8084445	87654321	Riverside County Information Technology	1/01/12	12/31/16	\$645,000.00	John Doe	John.Doe@riverside.org	951-555-1212
							-	
							-	
							-	

Licensing Solution Provider Agreement Number PSA-0001531

**Exhibit E
Master Agreement**

Attached include the followings:

- 1) Signature Form
- 2) Microsoft Enterprise Agreement
- 3) Microsoft Enterprise Agreement Amendment

Microsoft Document Headersheet

** This is for informational purposes only **

MSE#:

(MSLI
Tracking
Number)

5-0000004275258

Doc Type:

Signature Form

Do not modify the formatting or spacing of this Form above this text

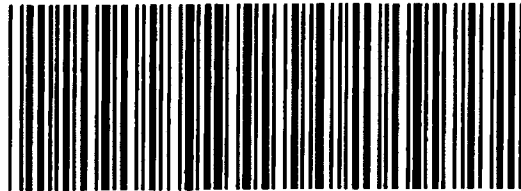
Subsidiary:

Country: **United States**

Account Manager Name / Alias:

LAR/LAD/ESA:

Insight Direct USA, Inc.



Program/Version

EA 6 2016

(Scanning Code)

ACCOUNT: County of Riverside

3

Outsourcer Name:

Business Agreement Number:

Master Agreement Number: **8084445**

Agreement Number:

Purchase Order Number:

Comments:



Volume Licensing

Program Signature Form

MBA/MBSA number

Agreement number

808444S

004-kayleed-S-04

Note: Enter the applicable active numbers associated with the documents below. Microsoft requires the associated active number be indicated here, or listed below as new.

For the purposes of this form, "Customer" can mean the signing entity, Enrolled Affiliate, Government Partner, Institution, or other party entering into a volume licensing program agreement.

This signature form and all contract documents identified in the table below are entered into between the Customer and the Microsoft Affiliate signing, as of the effective date identified below.

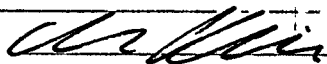
Contract Document	Number or Code
Enterprise Agreement	X20-10209
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
<Choose Enrollment/Registration>	Document Number or Code
Amendment to Contract Documents	CTM-CPT-OPT-FWK (new)

By signing below, Customer and the Microsoft Affiliate agree that both parties (1) have received, read and understand the above contract documents, including any websites or documents incorporated by reference and any amendments and (2) agree to be bound by the terms of all such documents.

Customer
Name of Entity (must be legal entity name)* County of Riverside
Signature* 
Printed First and Last Name* Richard R. Hai
Printed Title Sr. Procurement Contract Specialist
Signature Date* 08/22/2019
Tax ID

* indicates required field

FORM APPROVED COUNTY COUNSEL
BY  8/22/19
DATE
SUSANNA N. OH

Microsoft Affiliate	
Microsoft Corporation	
Signature  Printed First and Last Name Printed Title Signature Date (date Microsoft Affiliate countersigns) Agreement Effective Date (may be different than Microsoft's signature date)	 Microsoft Microsoft Corporation AUG 23 2019 Chance Krail Duly Authorized on behalf of Microsoft Corporation
8/23/2019	

Optional 2nd Customer signature or Outsourcer signature (if applicable)

Customer
Name of Entity (must be legal entity name)* Signature* _____ Printed First and Last Name* Printed Title Signature Date*

* indicates required field

Outsourcer
Name of Entity (must be legal entity name)* Signature* _____ Printed First and Last Name* Printed Title Signature Date*

* indicates required field

If Customer requires physical media, additional contacts, or is reporting multiple previous Enrollments, include the appropriate form(s) with this signature form.

After this signature form is signed by the Customer, send it and the Contract Documents to Customer's channel partner or Microsoft account manager, who must submit them to the following address. When the signature form is fully executed by Microsoft, Customer will receive a confirmation copy.

Microsoft Corporation
 Dept. 551, Volume Licensing
 6100 Neil Road, Suite 210
 Reno, Nevada 89511-1137
 USA

Microsoft Document Headersheet

** This is for informational purposes only **

MSE#:

(MSL
Tracking
Number)

5-0000004275258

Doc Type:

[REDACTED] Agreement

Do not modify the formatting or spacing of this Form above this text

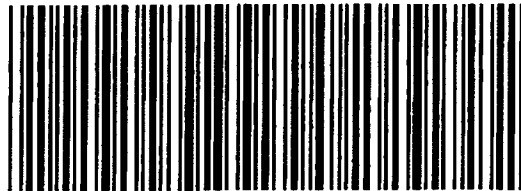
Subsidiary:

Country: **United States**

Account Manager Name / Alias:

LAR/LAD/ESA:

Insight Direct USA, Inc.



Program/Version

EA 6 2016

(Scanning Code)

ACCOUNT: County of Riverside

Outsourcer Name:

Business Agreement Number:

Master Agreement Number: **8084445**

Agreement Number:

Purchase Order Number:

15

Comments:

8/23/2019 9:42:31 PM

Enterprise Agreement**State and Local**

Not for Use with Microsoft Business Agreement or Microsoft Business and Services Agreement

This Microsoft Enterprise Agreement ("Agreement") is entered into between the entities identified on the signature form.

Effective date. The effective date of this Agreement is the earliest effective date of any Enrollment entered into under this Agreement or the date Microsoft accepts this Agreement, whichever is earlier.

This Agreement consists of (1) these Agreement terms and conditions, including any amendments and the signature form and all attachments identified therein, (2) the Product Terms applicable to Products licensed under this Agreement, (3) the Online Services Terms, (4) any Affiliate Enrollment entered into under this Agreement, and (5) any order submitted under this Agreement.

Please note: Documents referenced in this Agreement but not attached to the signature form may be found at <http://www.microsoft.com/licensing/contracts> and are incorporated in this Agreement by reference, including the Product Terms and Use Rights. These documents may contain additional terms and conditions for Products licensed under this Agreement and may be changed from time to time. Customer should review such documents carefully, both at the time of signing and periodically thereafter, and fully understand all terms and conditions applicable to Products licensed.

Terms and Conditions**1. Definitions.**

"Affiliate" means

- a. with regard to Customer,
 - (i) any government agency, department, office, instrumentality, division, unit or other entity of the state or local government that is supervised by or is part of Customer, or which supervises Customer or of which Customer is a part, or which is under common supervision with Customer;
 - (ii) any county, borough, commonwealth, city, municipality, town, township, special purpose district, or other similar type of governmental instrumentality established by the laws of Customer's state and located within Customer's state jurisdiction and geographic boundaries; and
 - (iii) any other entity in Customer's state expressly authorized by the laws of Customer's state to purchase under state contracts; provided that a state and its Affiliates shall not, for purposes of this definition, be considered to be Affiliates of the federal government and its Affiliates; and
- b. with regard to Microsoft, any legal entity that Microsoft owns, that owns Microsoft, or that is under common ownership with Microsoft.

"Customer" means the legal entity that has entered into this Agreement with Microsoft.

"Customer Data" means all data, including all text, sound, software, image, or video files that are provided to Microsoft by, or on behalf of, an Enrolled Affiliate and its Affiliates through use of Online Services.

"day" means a calendar day, except for references that specify "business day".

"Enrolled Affiliate" means an entity, either Customer or any one of Customer's Affiliates that has entered into an Enrollment under this Agreement.

"Enrollment" means the document that an Enrolled Affiliate submits under this Agreement to place orders for Products.

"Enterprise" means an Enrolled Affiliate and the Affiliates for which it is responsible and chooses on its Enrollment to include in its enterprise.

"Fixes" means Product fixes, modifications or enhancements, or their derivatives, that Microsoft either releases generally (such as Product service packs) or provides to Customer to address a specific issue.

"License" means the right to download, install, access and use a Product. For certain Products, a License may be available on a fixed term or subscription basis ("Subscription License"). Licenses for Online Services will be considered Subscription Licenses.

"Microsoft" means the Microsoft Affiliate that has entered into this Agreement or an Enrollment and its Affiliates, as appropriate.

"Online Services" means the Microsoft-hosted services identified as Online Services in the Product Terms.

"Online Services Terms" means the additional terms that apply to Customer's use of Online Services published on the Volume Licensing Site and updated from time to time.

"Product" means all products identified in the Product Terms, such as all Software, Online Services and other web-based services, including pre-release or beta versions.

"Product Terms" means the document that provides information about Microsoft Products and Professional Services available through volume licensing. The Product Terms document is published on the Volume Licensing Site and is updated from time to time.

"SLA" means Service Level Agreement, which specifies the minimum service level for Online Services and is published on the Volume Licensing Site.

"Software" means licensed copies of Microsoft software identified on the Product Terms. Software does not include Online Services, but Software may be part of an Online Service.

"Software Assurance" is an offering by Microsoft that provides new version rights and other benefits for Products as further described in the Product Terms.

"Trade Secret" means information that is not generally known or readily ascertainable to the public, has economic value as a result, and has been subject to reasonable steps under the circumstances to maintain its secrecy.

"use" or "run" means to copy, install, use, access, display, run or otherwise interact.

"Use Rights" means the use rights or terms of service for each Product published on the Volume Licensing Site and updated from time to time. The Use Rights supersede the terms of any end user license agreement that accompanies a Product. The Use Rights for Software are published by Microsoft in the Product Terms. The Use Rights for Online Services are published in the Online Services Terms.

"Volume Licensing Site" means <http://www.microsoft.com/licensing/contracts> or a successor site.

2. How the Enterprise program works.

- a. **General.** The Enterprise program consists of the terms and conditions on which an Enrolled Affiliate may acquire Product Licenses. Under the Enterprise program, Customer and its Affiliates may order Licenses for Products by entering into Enrollments.
- b. **Enrollments.** The Enterprise program gives Customer and/or its Affiliates the ability to enter into one or more Enrollments to order Products. Subscription Enrollments may be available for some of these Enrollments. Notwithstanding any other provision of this Agreement, only Enrolled Affiliates identified in an Enrollment will be responsible for complying with the terms of that Enrollment, including the terms of this Agreement incorporated by reference in that Enrollment.

- c. **Licenses.** The types of Licenses available are (1) Licenses obtained under Software Assurance (L&SA), and (2) Subscription Licenses. These License types, as well as additional License Types, are further described in the Product List.

3. **Licenses for Products.**

- a. **License Grant.** Microsoft grants the Enterprise a non-exclusive, worldwide and limited right to download, install and use software Products, and to access and use the Online Services, each in the quantity ordered under an Enrollment. The rights granted are subject to the terms of this Agreement, the Use Rights and the Product Terms. Microsoft reserves all rights not expressly granted in this Agreement.
- b. **Duration of Licenses.** Subscription Licenses and most Software Assurance rights are temporary and expire when the applicable Enrollment is terminated or expires, unless the Enrolled Affiliate exercises a buy-out option, which is available for some Subscription Licenses. Except as otherwise noted in the applicable Enrollment or Use Rights, all other Licenses become perpetual only when all payments for that License have been made and the initial Enrollment term has expired.
- c. **Applicable Use Rights.**
- (i) **Products (other than Online Services).** The Use Rights in effect on the effective date of the applicable Enrollment term will apply to Enterprise's use of the version of each Product that is current at the time. For future versions and new Products, the Use Rights in effect when those versions and Products are first released will apply. Changes Microsoft makes to the Use Rights for a particular version will not apply unless the Enrolled Affiliate chooses to have those changes apply. The Use Rights applicable to perpetual Licenses that were acquired under a previous agreement or Enrollment are determined by the Agreement or Enrollment under which they were acquired. Renewal of Software Assurance does not change which Use Rights apply to those Licenses.
- (ii) **Online Services.** For Online Services, the Use Rights in effect on the subscription start date will apply for the subscription term as defined in the Product Terms.
- d. **Downgrade rights.** Enrolled Affiliate may use an earlier version of a Product other than Online Services than the version that is current on the effective date of the Enrollment. For Licenses acquired in the current Enrollment term, the Use Rights for the current version apply to the use of the earlier version. If the earlier Product version includes features that are not in the new version, then the Use Rights applicable to the earlier version apply with respect to those features.
- e. **New Version Rights under Software Assurance.** Enrolled Affiliate must order and maintain continuous Software Assurance coverage for each License ordered. With Software Assurance coverage, Enterprise automatically has the right to use a new version of a licensed Product as soon as it is released, even if Enrolled Affiliate chooses not to use the new version immediately.
- (i) Except as otherwise permitted under an Enrollment, use of the new version will be subject to the new version's Use Rights.
- (ii) If the License for the earlier version of the Product is perpetual at the time the new version is released, the License for the new version will also be perpetual. Perpetual Licenses obtained through Software Assurance replace any perpetual Licenses for the earlier version.
- f. **License confirmation.** This Agreement, the applicable Enrollment, Enrolled Affiliate's order confirmation, and any documentation evidencing transfers of perpetual Licenses, together with proof of payment, will be Enrolled Affiliate's evidence of all Licenses obtained under an Enrollment.

- g. **Reorganizations, consolidations and privatizations.** If the number of Licenses covered by an Enrollment changes by more than ten percent as a result of (1) a reorganization, consolidation or privatization of an entity or an operating division, (2) a privatization of an Affiliate or an operating division of Enrolled Affiliate or any of its Affiliates, or (3) a consolidation including a merger with a third party that has an existing agreement or Enrollment, Microsoft will work with Enrolled Affiliate in good faith to determine how to accommodate its changed circumstances in the context of this Agreement.

4. Making copies of Products and re-imaging rights.

- a. **General.** Enrolled Affiliate may make as many copies of Products, as it needs to distribute them within the Enterprise. Copies must be true and complete (including copyright and trademark notices) from master copies obtained from a Microsoft approved fulfillment source. Enrolled Affiliate may use a third party to make these copies, but Enrolled Affiliate agrees it will be responsible for any third party's actions. Enrolled Affiliate agrees to make reasonable efforts to notify its employees, agents, and any other individuals who use the Products that the Products are licensed from Microsoft and subject to the terms of this Agreement.
- b. **Copies for training/evaluation and back-up.** For all Products other than Online Services, Enrolled Affiliate may: (1) use up to 20 complimentary copies of any licensed Product in a dedicated training facility on its premises for purposes of training on that particular Product, (2) use up to 10 complimentary copies of any Products for a 60-day evaluation period, and (3) use one complimentary copy of any licensed Product for back-up or archival purposes for each of its distinct geographic locations. Trials for Online Services may be available if specified in the Use Rights.
- c. **Right to re-image.** In certain cases, re-imaging is permitted using the Product media. If the Microsoft Product is licensed (1) from an original equipment manufacturer (OEM), (2) as a full packaged Product through a retail source, or (3) under another Microsoft program, then media provided under this Agreement may generally be used to create images for use in place of copies provided through that separate source. This right is conditional upon the following:
- (i) Separate Licenses must be acquired from the separate source for each Product that is re-imaged.
 - (ii) The Product, language, version, and components of the copies made must be identical to the Product, language, version, and all components of the copies they replace and the number of copies or instances of the re-imaged Product permitted remains the same.
 - (iii) Except for copies of an operating system and copies of Products licensed under another Microsoft program, the Product type (e.g., Upgrade or full License) re-imaged must be identical to the Product type licensed from the separate source.
 - (iv) Enrolled Affiliate must adhere to any Product-specific processes or requirements for re-imaging identified in the Product Terms.

Re-imaged Products remain subject to the terms and use rights of the License acquired from the separate source. This subsection does not create or extend any Microsoft warranty or support obligation.

5. Transferring and reassigning Licenses.

- a. **License transfers.** License transfers are not permitted, except that Customer or an Enrolled Affiliate may transfer only fully-paid perpetual Licenses to:
- (i) an Affiliate, or
 - (ii) a third party solely in connection with the transfer of hardware or employees to whom the Licenses have been assigned as part of (A) a privatization of an Affiliate or agency or of an

operating division of Enrolled Affiliate or an Affiliate. (B) a reorganization, or (C) a consolidation.

Upon such transfer, Customer or Enrolled Affiliate must uninstall and discontinue using the licensed Product and render any copies unusable.

- b. **Notification of License Transfer.** Enrolled Affiliate must notify Microsoft of a License transfer by completing a license transfer form, which can be obtained from <http://www.microsoft.com/licensing/contracts> and sending the completed form to Microsoft before the License transfer. No License transfer will be valid unless Enrolled Affiliate provides to the transferee, and the transferee accepts in writing, documents sufficient to enable the transferee to ascertain the scope, purpose and limitations of the rights granted by Microsoft under the licenses being transferred (including the applicable Use Rights, use and transfer restrictions, warranties and limitations of liability). Any License transfer not made in compliance with this section will be void.
- c. **Internal Assignment of Licenses and Software Assurance.** Licenses and Software Assurance must be assigned to a single user or device within the Enterprise. Licenses and Software Assurance may be reassigned within the Enterprise as described in the Use Rights.

6. **Term and termination.**

- a. **Term.** The term of this Agreement will be 36 full calendar months from the effective date unless terminated by either party as described below. Each Enrollment will have the term provided in that Enrollment.
- b. **Termination without cause.** Either party may terminate this Agreement, without cause, upon 60 days' written notice. In the event of termination, new Enrollments will not be accepted, but any existing Enrollment will continue for the term of such Enrollment and will continue to be governed by this Agreement.
- c. **Mid-term termination for non-appropriation of Funds.** Enrolled Affiliate may terminate this Agreement or an Enrollment without liability, penalty or further obligation to make payments if funds to make payments under the Agreement or Enrollment are not appropriated or allocated by the Enrolled Affiliate for such purpose.
- d. **Termination for cause.** Without limiting any other remedies it may have, either party may terminate an Enrollment if the other party materially breaches its obligations under this Agreement, including any obligation to submit orders or pay invoices. Except where the breach is by its nature not curable within 30 days, the terminating party must give the other party 30 days' notice of its intent to terminate and an opportunity to cure the breach.

If Microsoft gives such notice to an Enrolled Affiliate, Microsoft also will give Customer a copy of that notice and Customer agrees to help resolve the breach. If the breach affects other Enrollments and cannot be resolved between Microsoft and Enrolled Affiliate, together with Customer's help, within a reasonable period of time, Microsoft may terminate this Agreement and all Enrollments under it. If an Enrolled Affiliate ceases to be Customer's Affiliate, it must promptly notify Microsoft, and Microsoft may terminate the former Affiliate's Enrollment. If an Enrolled Affiliate terminates its Enrollment as a result of a breach by Microsoft, or if Microsoft terminates an Enrollment because Enrolled Affiliate ceases to be Customer's Affiliate, then Enrolled Affiliate will have the early termination rights described in the Enrollment.

- e. **Early termination.** If (1) an Enrolled Affiliate terminates its Enrollment as a result of a breach by Microsoft, or (2) if Microsoft terminates an Enrollment because the Enrolled Affiliate has ceased to be an Affiliate of Customer, or (3) Enrolled Affiliate terminates an Enrollment for non-appropriation of funds, or (4) Microsoft terminates an Enrollment for non-payment due to non-appropriation of funds, then the Enrolled Affiliate will have the following options:

- (i) It may immediately pay the total remaining amount due, including all installments, in which case, the Enrolled Affiliate will have perpetual rights for all Licenses it has ordered; or

(ii) It may pay only amounts due as of the termination date, in which case the Enrolled Affiliate will have perpetual Licenses for:

- 1) all copies of Products (including the latest version of Products ordered under SA coverage in the current term) for which payment has been made in full, and
- 2) the number of copies of Products it has ordered (including the latest version of Products ordered under Software Assurance coverage in current term) that is proportional to the total of installment payments paid versus total amounts due (paid and payable) if the early termination had not occurred.

(iii) In the case of early termination under subscription Enrollments, Enrolled Affiliate will have the following options:

- 1) For eligible Products, Enrolled Affiliate may obtain perpetual Licenses as described in the section of the Enrollment titled "Buy-out option," provided that Microsoft receives the buy-out order for those Licenses within 60 days after Enrolled Affiliate provides notice of termination.
- 2) In the event of a breach by Microsoft, if Customer chooses not to exercise a buy-out option, Microsoft will issue Enrolled Affiliate a credit for any amount paid in advance for Subscription Licenses that the Enterprise will not be able to use to do the termination of the Enrollment.

Nothing in this section shall affect perpetual License rights acquired either in a separate agreement or in a prior term of the terminated Enrollment.

f. Effect of termination or expiration. When an Enrollment expires or is terminated,

- (i) Enrolled Affiliate must order Licenses for all copies of Products it has run for which it has not previously submitted an order. Any and all unpaid payments for any order of any kind remain due and payable. Except as provided in the subsection titled "Early termination," all unpaid payments for Licenses immediately become due and payable.
- (ii) Enrolled Affiliate's right to Software Assurance benefits under this Agreement ends if it does not renew Software Assurance.

g. Modification or termination of an Online Service for regulatory reasons. Microsoft may modify or terminate an Online Service where there is any current or future government requirement or obligation that: (1) subjects Microsoft to any regulation or requirement not generally applicable to businesses operating in the jurisdiction; (2) presents a hardship for Microsoft to continue operating the Online Service without modification; and/or (3) causes Microsoft to believe these terms or the Online Service may conflict with any such requirement or obligation.

h. Program updates. Microsoft may make changes to this program that will make it necessary for Customer and its Enrolled Affiliates to enter into new agreements and Enrollments at the time of an Enrollment renewal.

7. Use, ownership, rights, and restrictions.

- a. **Products.** Unless otherwise specified in a supplemental agreement, use of any Product is governed by the Use Rights specific to each Product and version and by the terms of the applicable supplemental agreement.
- b. **Fixes.** Each Fix is licensed under the same terms as the Product to which it applies. If a Fix is not provided for a specific Product, any use rights Microsoft provides with the Fix will apply.
- c. **Non-Microsoft software and technology.** Enrolled Affiliate is solely responsible for any non-Microsoft software or technology that it installs or uses with the Products or Fixes.

- d. **Restrictions.** Enrolled Affiliate must not (and is not licensed to) (1) reverse engineer, decompile, or disassemble any Product or Fix; (2) install or use non-Microsoft software or technology in any way that would subject Microsoft's intellectual property or technology to any other license terms; or (3) work around any technical limitations in a Product or Fix or restrictions in Product documentation. Customer must not (and is not licensed to) (i) separate and run parts of a Product or Fix on more than one device, upgrade or downgrade parts of a Product or Fix at different times, or transfer parts of a Product or Fix separately; or (ii) distribute, sublicense, rent, lease, lend any Products or Fixes, in whole or in part, or use them to offer hosting services to a third party.
- e. **Reservation of rights.** Products and Fixes are protected by copyright and other intellectual property rights laws and international treaties. Microsoft reserves all rights not expressly granted in this agreement. No rights will be granted or implied by waiver or estoppel. Rights to access or use Software on a device do not give Customer any right to implement Microsoft patents or other Microsoft intellectual property in the device itself or in any other software or devices.

8. Confidentiality.

"Confidential Information" is non-public information that is designated "confidential" or that a reasonable person should understand is confidential, including Customer Data. Confidential Information does not include information that (a) becomes publicly available without a breach of this agreement, (b) the receiving party received lawfully from another source without a confidentiality obligation, (c) is independently developed, or (d) is a comment or suggestion volunteered about the other party's business, products or services.

Each party will take reasonable steps to protect the other's Confidential Information and will use the other party's Confidential Information only for purposes of the parties' business relationship. Neither party will disclose that Confidential Information to third parties, except to its employees, Affiliates, contractors, advisors and consultants ("Representatives") and then only on a need-to-know basis under nondisclosure obligations at least as protective as this agreement. Each party remains responsible for the use of the Confidential Information by its Representatives and, in the event of discovery of any unauthorized use or disclosure, must promptly notify the other party.

A party may disclose the other's Confidential Information if required by law, but only after it notifies the other party (if legally permissible) to enable the other party to seek a protective order.

Neither party is required to restrict work assignments of its Representatives who have had access to Confidential Information. Each party agrees that the use of information retained in Representatives' unaided memories in the development or deployment of the parties' respective products or services does not create liability under this Agreement or trade secret law, and each party agrees to limit what it discloses to the other accordingly.

These obligations apply (i) for Customer Data until it is deleted from the Online Services, and (ii) for all other Confidential Information, for a period of five years after a party receives the Confidential Information.

9. Privacy and compliance with laws.

- a. Enrolled Affiliate consents to the processing of personal information by Microsoft and its agents to facilitate the subject matter of this Agreement. Enrolled Affiliate will obtain all required consents from third parties under applicable privacy and data protection law before providing personal information to Microsoft.
- b. Personal information collected under this agreement (i) may be transferred, stored and processed in the United States or any other country in which Microsoft or its service providers maintain facilities and (ii) will be subject to the privacy terms specified in the Use Rights. Microsoft will abide by the requirements of European Economic Area and Swiss data protection

law regarding the collection, use, transfer, retention, and other processing of personal data from the European Economic Area and Switzerland.

- c. **U.S. export.** Products and Fixes are subject to U.S. export jurisdiction. Enrolled Affiliate must comply with all applicable international and national laws, including the U.S. Export Administration Regulations and International Traffic in Arms Regulations, and end-user, end use and destination restrictions issued by U.S. and other governments related to Microsoft products, services and technologies.

10. Warranties.

a. Limited warranties and remedies.

- (i) **Software.** Microsoft warrants that each version of the Software will perform substantially as described in the applicable Product documentation for one year from the date the Enterprise is first licensed for that version. If it does not and the Enterprise notifies Microsoft within the warranty term, then Microsoft will, at its option (1) return the price Enrolled Affiliate paid for the Software license, or (2) repair or replace the Software.
- (ii) **Online Services.** Microsoft warrants that each Online Service will perform in accordance with the applicable SLA during the Enterprise's use. The Enterprise's remedies for breach of this warranty are in the SLA.

The remedies above are the Enterprise's sole remedies for breach of the warranties in this section. Customer waives any breach of warranty claims not made during the warranty period.

- b. **Exclusions.** The warranties in this agreement do not apply to problems caused by accident, abuse, or use in a manner inconsistent with this Agreement, including failure to meet minimum system requirements. These warranties do not apply to free, trial, pre-release, or beta products, or to components of Products that Enrolled Affiliate is permitted to redistribute.
- c. **Disclaimer.** Except for the limited warranties above, Microsoft provides no other warranties or conditions and disclaims any other express, implied, or statutory warranties, including warranties of quality, title, non-infringement, merchantability, and fitness for a particular purpose.

11. Defense of third party claims.

The parties will defend each other against the third-party claims described in this section and will pay the amount of any resulting adverse final judgment or approved settlement, but only if the defending party is promptly notified in writing of the claim and has the right to control the defense and any settlement of it. The party being defended must provide the defending party with all requested assistance, information, and authority. The defending party will reimburse the other party for reasonable out-of-pocket expenses it incurs in providing assistance. This section describes the parties' sole remedies and entire liability for such claims.

- a. **By Microsoft.** Microsoft will defend Enrolled Affiliate against any third-party claim to the extent it alleges that a Product or Fix made available by Microsoft for a fee and used within the scope of the license granted (unmodified from the form provided by Microsoft and not combined with anything else) misappropriates a trade secret or directly infringes a patent, copyright, trademark or other proprietary right of a third party. If Microsoft is unable to resolve a claim of infringement under commercially reasonable terms, it may, at its option, either (1) modify or replace the Product or Fix with a functional equivalent; or (2) terminate Enrolled Affiliate's license and refund any prepaid license fees (less depreciation on a five-year, straight-line basis) for perpetual licenses and any amount paid for Online Services for any usage period after the termination date. Microsoft will not be liable for any claims or damages due to Enrolled Affiliate's continued use of a Product or Fix after being notified to stop due to a third-party claim.
- b. **By Enrolled Affiliate.** To the extent permitted by applicable law, Enrolled Affiliate will defend Microsoft against any third-party claim to the extent it alleges that: (1) any Customer Data or

non-Microsoft software hosted in an Online Service by Microsoft on Enrolled Affiliate's behalf misappropriates a trade secret or directly infringes a patent, copyright, trademark, or other proprietary right of a third party; or (2) Enrolled Affiliate's use of any Product or Fix, alone or in combination with anything else, violates the law or damages a third party.

12. Limitation of liability.

For each Product, each party's maximum, aggregate liability to the other under this Agreement is limited to direct damages finally awarded in an amount not to exceed the amounts Enrolled Affiliate was required to pay for the applicable Products during the term of this Agreement, subject to the following:

- a. **Online Services.** For Online Services, Microsoft's maximum liability to Enrolled Affiliate for any incident giving rise to a claim will not exceed the amount Enrolled Affiliate paid for the Online Service during the 12 months before the incident.
- b. **Free Products and Distributable Code.** For Products provided free of charge and code that Enrolled Affiliate is authorized to redistribute to third parties without separate payment to Microsoft, Microsoft's liability is limited to direct damages finally awarded up to US\$5,000.
- c. **Exclusions.** In no event will either party be liable for indirect, incidental, special, punitive, or consequential damages, or for loss of use, loss of business information, loss of revenue, or interruption of business, however caused or on any theory of liability.
- d. **Exceptions.** No limitation or exclusions will apply to liability arising out of either party's (1) confidentiality obligations (except for all liability related to Customer Data, which will remain subject to the limitations and exclusions above); (2) defense obligations; or (3) violation of the other party's intellectual property rights.

13. Verifying compliance.

- a. **Right to verify compliance.** Enrolled Affiliate must keep records relating to all use and distribution of Products by Enrolled Affiliate and its Affiliates. Microsoft has the right, at its expense, to the extent permitted by applicable law, to verify compliance with the Product's license terms. Enrolled Affiliate must promptly provide the independent auditor with any information the auditor reasonably requests in furtherance of the verification, including access to systems running the Products and evidence of Licenses for Products Enrolled Affiliate hosts, sublicenses, or distributes to third parties. Enrolled Affiliate agrees to complete Microsoft's self-audit process, which Microsoft may require as an alternative to a third party audit.
- b. **Remedies for non-compliance.** If verification or self-audit reveals any unlicensed use or distribution, then within 30 days, (1) Enrolled Affiliate must order sufficient Licenses to cover that use or distribution, and (2) if unlicensed use or distribution is 5% or more, Enrolled Affiliate must reimburse Microsoft for the cost Microsoft has incurred in verification and acquire the necessary additional licenses at 125% of the price based on the then-current price list and Enrolled Affiliate price level. The unlicensed use percentage is based on the total number of licenses purchased compared to actual install base. If there is no unlicensed use, Microsoft will not subject Enrolled Affiliate to another verification for at least one year. By exercising the rights and procedures described above, Microsoft does not waive its rights to enforce this Agreement or to protect its intellectual property by any other means permitted by law.
- c. **Verification process.** Microsoft will notify Enrolled Affiliate at least 30 days in advance of its intent to verify Enrolled Affiliate's compliance with the license terms for the Products Enrolled Affiliate and its Affiliates use or distribute. Microsoft will engage an independent auditor, which will be subject to a confidentiality obligation. Any information collected in the self-audit will be used solely for purposes of determining compliance. This verification will take place during normal business hours and in a manner that does not interfere unreasonably with Enrolled Affiliate's operations.

14. **Miscellaneous.**

- a. **Use of contractors.** Microsoft may use contractors to perform services, but will be responsible for their performance subject to the terms of this Agreement.
- b. **Microsoft as independent contractor.** The parties are independent contractors. Enrolled Affiliate and Microsoft each may develop products independently without using the other's Confidential Information.
- c. **Notices.** Notices to Microsoft must be sent to the address on the signature form. Notices must be in writing and will be treated as delivered on the date shown on the return receipt or on the courier or fax confirmation of delivery. Microsoft may provide information to Enrolled Affiliate about upcoming ordering deadlines, services, and subscription information in electronic form, including by email to contacts provided by Enrolled Affiliate. Emails will be treated as delivered on the transmission date.
- d. **Agreement not exclusive.** Customer is free to enter into agreements to license, use or promote non-Microsoft products.
- e. **Amendments.** Any amendment to this Agreement must be executed by both parties, except that Microsoft may change the Product Terms and the Use Rights from time to time in accordance with the terms of this Agreement. Any conflicting terms and conditions contained in an Enrolled Affiliate's purchase order will not apply. Microsoft may require Customer to sign a new agreement or an amendment before an Enrolled Affiliate enters into an Enrollment under this agreement.
- f. **Assignment.** Either party may assign this Agreement to an Affiliate, but must notify the other party in writing of the assignment. Any other proposed assignment must be approved by the non-assigning party in writing. Assignment will not relieve the assigning party of its obligations under the assigned agreement. Any attempted assignment without required approval will be void.
- g. **Applicable law; dispute resolution.** The terms of this Agreement will be governed by the laws of Customer's state, without giving effect to its conflict of laws. Disputes relating to this Agreement will be subject to applicable dispute resolution laws of Customer's state.
- h. **Severability.** If any provision in this agreement is held to be unenforceable, the balance of the agreement will remain in full force and effect.
- i. **Waiver.** Failure to enforce any provision of this agreement will not constitute a waiver. Any waiver must be in writing and signed by the waiving party.
- j. **No third-party beneficiaries.** This Agreement does not create any third-party beneficiary rights.
- k. **Survival.** All provisions survive termination or expiration of this Agreement except those requiring performance only during the term of the Agreement.
- l. **Management and Reporting.** Customer and/or Enrolled Affiliate may manage account details (e.g., contacts, orders, Licenses, software downloads) on Microsoft's Volume Licensing Service Center ("VLSC") web site (or successor site) at: <https://www.microsoft.com/licensing/servicecenter>. Upon the effective date of this Agreement and any Enrollments, the contact(s) identified for this purpose will be provided access to this site and may authorize additional users and contacts.
- m. **Order of precedence.** In the case of a conflict between any documents in this Agreement that is not expressly resolved in those documents, their terms will control in the following order from highest to lowest priority: (1) this Enterprise Agreement, (2) any Enrollment, (3) the Product Terms, (4) the Online Services Terms, (5) orders submitted under this Agreement, and (6) any other documents in this Agreement. Terms in an amendment control over the amended document and any prior amendments concerning the same subject matter.

- n. **Free Products.** It is Microsoft's intent that the terms of this Agreement and the Use Rights be in compliance with all applicable federal law and regulations. Any free Product provided to Enrolled Affiliate is for the sole use and benefit of the Enrolled Affiliate, and is not provided for use by or personal benefit of any specific government employee.
- o. **Voluntary Product Accessibility Templates.** Microsoft supports the government's obligation to provide accessible technologies to its citizens with disabilities as required by Section 508 of the Rehabilitation Act of 1973, and its state law counterparts. The Voluntary Product Accessibility Templates ("VPATs") for the Microsoft technologies used in providing the Online Services can be found at Microsoft's VPAT page. Further information regarding Microsoft's commitment to accessibility can be found at <http://www.microsoft.com/enable>.
- p. **Natural disaster.** In the event of a "natural disaster," Microsoft may provide additional assistance or rights by posting them on <http://www.microsoft.com> at such time.
- q. **Copyright violation.** Except as set forth in the section above entitled "Transferring and reassigning Licenses", the Enrolled Affiliate agrees to pay for, and comply with the terms of this Agreement and the Use Rights, for the Products it uses. Except to the extent Enrolled Affiliate is licensed under this Agreement, it will be responsible for its breach of this contract and violation of Microsoft's copyright in the Products, including payment of License fees specified in this Agreement for unlicensed use.

Supplemental Contact Information Form

This form can be used in combination with MBSA, Agreement, and Enrollment/Registration. However, a separate form must be submitted for each enrollment/registration, when more than one is submitted on a signature form. For the purposes of this form, "entity" can mean the signing entity, Customer, Enrolled Affiliate, Government Partner, Institution, or other party entering into a volume licensing program agreement. Primary and Notices contacts in this form will not apply to enrollments or registrations.

This form applies to:

- ☐ MBSA
☒ Agreement
☐ Enrollment/Affiliate Registration Form

Insert primary entity name if more than one Enrollment/Registration Form is submitted

Contact information.

Each party will notify the other in writing if any of the information in the following contact information page(s) changes. The asterisks (*) indicate required fields; if the entity chooses to designate other contact types, the same required fields must be completed for each section. By providing contact information, entity consents to its use for purposes of administering the Enrollment by Microsoft and other parties that help Microsoft administer this Enrollment. The personal information provided in connection with this agreement will be used and protected according to the privacy statement available at <https://licensing.microsoft.com>.

1. Additional notices contact.

This contact receives all notices that are sent from Microsoft. No online access is granted to this individual.

Name of entity* County of Riverside
Contact name*: First Regina Last Funderburk
Contact email address* RFunderburk@rivco.org
Street address* 3450 14th Street, 4th Floor
City* Riverside State/Province* California Postal code* 92501-3861
Country* USA
Phone* 951-955-2265 Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

2. Software Assurance manager.

This contact will receive online permissions to manage the Software Assurance benefits under the Enrollment or Registration.

Name of entity* County of Riverside
Contact name*: First Regina Last Funderburk
Contact email address* RFunderburk@rivco.org
Street address* 3450 14th Street, 4th Floor
City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-2265 Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

3. *Subscriptions manager.*

This contact will assign MSDN, Expression, and TechNet Plus subscription licenses to the individual subscribers under this Enrollment or Registration. Assignment of the subscription licenses is necessary for access to any of the online benefits, such as subscription downloads. This contact will also manage any complimentary or additional media purchases related to these subscriptions.

Name of entity* County of Riverside

Contact name*: First Regina Last Funderburk

Contact email address* RFunderburk@rivco.org

Street address* 3450 14th Street, 4th Floor

City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-2265 Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

4. *Online services manager.*

This contact will be provided online permissions to manage the online services ordered under the Enrollment or Registration.

Name of entity* County of Riverside

Contact name*: First Luis Last Flores

Contact email address* LFFlores@rivco.org

Street address* 3450 14th Street, 4th Floor

City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-8114 Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

5. *Customer Support Manager (CSM).*

This person is designated as the Customer Support Manager (CSM) for support-related activities.

Name of entity* County of Riverside

Contact name*: First Luis Last Flores

Contact email address* LFFlores@rivco.org

Street address* 3450 14th Street, 4th Floor

City* Riverside State/Province* California Postal code* 92501-3861

Country* USA

Phone* 951-955-8114 Fax

6. *Primary contact information.*

An individual from inside the organization must serve as the primary contact. This contact receives online administrator permissions and may grant online access to others. This contact also receives all notices unless Microsoft is provided written notice of a change.

Name of entity* County of Riverside

Contact name*: First Jim Last Smith
Contact email address* jimsmith@rivco.org
Street address* 3450 14th Street, 4th Floor
City* Riverside State/Province* CA Postal code* 92501-3861
Country* US
Phone* 951-231-5909 Fax

7. Notices contact and online administrator information.

This individual receives online administrator permissions and may grant online access to others. This contact also receives all notices.

☒ Same as primary contact

Name of entity*

Contact name*: First Last

Contact email address*

Street address*

City* State/Province* Postal code*

Country*

Phone* Fax

☐ This contact is a third party (not the entity). Warning: This contact receives personally identifiable information of the entity.

Microsoft Document Headersheet

** This is for informational purposes only **

MSE#:

(MSLI
Tracking
Number)

5-0000004275258

Doc Type:

Amendments

Do not modify the formatting or spacing of this Form above this text

Subsidiary:

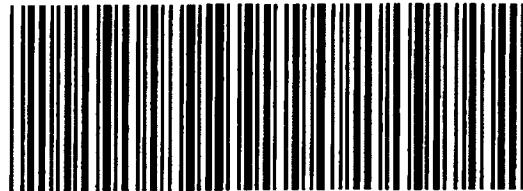
Country:

United States

Account Manager Name / Alias:

LAR/LAD/ESA:

Insight Direct USA, Inc.



Program/Version

EA 6 2016

(Scanning Code)

ACCOUNT: County of Riverside

Outsourcer Name:

Business Agreement Number:

Master Agreement Number: **8084445**

Agreement Number:

Purchase Order Number:

Comments:

8/23/2019 9:42:40 PM

Amendment to Contract Documents

Agreement Number

8084445

004-kayleed-S-04

This amendment ("Amendment") is entered into between the parties identified on the attached program signature form. It amends the Enrollment or Agreement identified above. All terms used but not defined in this Amendment will have the same meanings provided in that Enrollment or Agreement.

Enterprise Agreement Custom Terms CTM

1. Section 6a, "Term", is hereby amended and restated as follows:
 - a. **Term.** The term of this Agreement will remain in effect unless terminated by either party as described below. Each Enrollment will have the term provided in that Enrollment.
2. The pricing that Microsoft will offer Enrolled Affiliate's Reseller for Enrollments effective between November 1, 2019 through October 31, 2021, and that will apply for the entire initial term of such Enrollments, is as follows:

Product	Price Level	Examples include but are not limited to the following*:
Enterprise Online Services** (including Full USLs, from SA USLs, Add-ons and Step Ups)	Level D minus 2%	M365 E3 and E5, Enterprise Mobility + Security E3 and E5, Office 365 Enterprise E1 or E3, Windows 10 Enterprise E3 or E5
Enterprise Products	Level D	Office 365 Pro Plus, Windows 10 Enterprise, Core CAL Suite, Enterprise CAL Suite
Additional Products	Level D	M365 F1, M365 E5 Compliance, M365 E5 Security, Office 365 Enterprise F1, Project Online, Visio Online Plan 1 or Plan 2, Dynamics 365, Azure, SQL Server, Windows Server, etc.
Server and Tools Product (applies to Server and Cloud Enrollments only)	Level D	SharePoint Server, SQL Server, BizTalk Server, Visual Studio, Core Infrastructure Suites, etc.

*The examples include online services that are available in either the commercial or government cloud offerings.

**Qualifying Enterprise Online Services are identified in the Product Terms with the cell value of "EO" in the tables for "Program Availability". The scope of Enterprise Online Services is subject to change as Enterprise Online Services are added, updated/revised or removed from the Enterprise program offering.

Exclusions apply to the additional 2% discount on Enterprise Online Services as follows:

- The price list month that applies to an order is not a factor in determining whether the additional 2% discount on Enterprise Online Services may be applied to an order. The only applicable factor is the effective date of the Enrollment.
- The discount does not apply to any extensions of the initial Term or renewal Enrollments.
- The discount does not apply to any promotional SKUs. Enrolled Affiliate is entitled to the lower of the promotional price or discounted price.

The price level that applies to Enrollments effective on or after November 1, 2021 is Level D for all Products.

The Reseller and the Enrolled Affiliate will determine the Enrolled Affiliate's actual price and payment terms.

Except for changes made by this Amendment, the Enrollment or Agreement identified above remains unchanged and in full force and effect. If there is any conflict between any provision in this Amendment and any provision in the Enrollment or Agreement identified above, this Amendment shall control.

This Amendment must be attached to a signature form to be valid.

Microsoft Internal Use Only:

Riverside County EA Amend 8.7.docx	CTM	CTM-CPT-OPT-FWK	BD
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Purchase of Microsoft Products 'Piggybacking' off of County of Riverside Microsoft Enterprise Agreement #808445

City Council

May 2, 2023

Helen Miller, Chief Information Officer

That the City Council:

1. Approve "piggybacking" off of the County of Riverside's Microsoft Enterprise Agreement 8084445 licensed service provider agreement PSA-0001522; and
2. Authorize the Mayor to execute a purchase order with CDW Government LLC, a "piggyback" service provider and authorized Microsoft reseller, for an amount not-to-exceed \$1,727,616 for the continued use and purchase of Microsoft products for three years beginning May 1, 2023, through April 30, 2026; and
3. Authorize the Mayor to execute a Microsoft Volume Licensing Program Signature Form.

- Since 2011, the City of Oxnard has used a Microsoft Enterprise Agreement (EA) for Microsoft products used by the Police & Fire Departments
- Microsoft software is on every public safety computer and on most of their technology infrastructure servers providing business systems used to conduct daily business and deliver services to residents.
- County of Riverside negotiated a Microsoft Enterprise Agreement #8084445
 - The City piggybacks on their contract as do 900 other public agencies to achieve greater savings
 - Required Microsoft agreement term is 3 years
 - Prices locked in for duration
 - Must use a Riverside Master Agreement authorized reseller

- The City's existing EA terminates on April 30, 2023
- Maintaining the EA ensures the City can keep department systems operational and resident services available via:
 - Valid compliant Microsoft licensing
 - Weekly Microsoft security maintenance & product bug fixes
 - Enhanced functionality service pack updates
 - Rights to the latest version of a product
 - Microsoft technical support access
 - Single IT administrative portal
 - Improved efficiency, effectiveness, reliability, cyber resiliency, and performance of City operations dependent on Microsoft products

- City has used Microsoft as platform throughout City for 20 years; e.g.
 - Operating systems – servers and work stations
 - Business applications – Office suite; SQL server (store/manage data)
 - Obsolete products remain in use

IT continues to improve the City's technology infrastructure, computer hardware & business applications (software) including ensuring valid licenses for all computer software utilized by City staff and Departments

- Existing EA covers only public safety
- This purchase adds all other City Departments & datacenter management
- All Departments require up-to-date & supported Microsoft products for functionality and cyber-security
- Rectifies number of valid licenses for Windows desktop based on City's current staffing levels & computer systems use

TABLE 1 – Microsoft EA Estimated Costs, 5/1/2023 through 4/30/2026

Description	EA Year 1	EA Year 2	EA Year 3	Total
	5/1/23 -4/30/24	5/1/24-4/30/25	5/1/25-4/30/26	
Microsoft Enterprise Agreement (EA) - Public Safety + 20% growth contingency	\$ 148,043	\$ 148,043	\$ 148,043	\$ 444,129
Microsoft Enterprise Agreement – All Depts & Datacenter + 20% growth contingency	\$ 760,236	\$ 395,952	\$ 127,299	\$ 1,283,488
TOTAL, estimated per fiscal year	\$ 908,279	\$ 543,995	\$ 275,342	\$ 1,727,616

- County of Riverside authorized reseller quote process is in progress; agreement to come after Council approval
- Agreement total not to exceed estimate = \$1,727,616
- Growth contingency (20%) is for unforeseen remediation or emergency needs and flexible capacity to support City Departments through April 30, 2026 when the EA agreement terminates
- Public safety's actual EA growth rate for past 3 years is 24%
- Total EA contingency amount in above table is \$287,936
- Annual amounts and the timing /volume of product purchases are subject to shift within EA's term, based on City Departments' needs, with adherence to not-to-exceed 3-year agreement total.

- This purchase increases the City's three-year estimated renewal cost for Microsoft products, inclusive of a 20% growth contingency
 - From \$444,128 for the Police & Fire Departments
 - To \$1,727,616 for all City departments & the addition of IT datacenter management capabilities.
 - Increase of \$1,283,488 for the 3-year agreement term, averages \$575,872 annually v. \$148,043 annually for public safety only
- Funds available in IT's FY 22-23 budget for EA year 1
- Future years' payment obligations will be allocated into IT budget as part of normal budgeting process.

That the City Council:

1. Approve "piggybacking" off of the County of Riverside's Microsoft Enterprise Agreement 8084445 licensed service provider agreement PSA-0001522; and
2. Authorize the Mayor to execute a purchase order with CDW Government LLC, a "piggyback" service provider and authorized Microsoft reseller, for an amount not-to-exceed \$1,727,616 for the continued use and purchase of Microsoft products for three years beginning May 1, 2023, through April 30, 2026; and
3. Authorize the Mayor to execute a Microsoft Volume Licensing Program Signature Form.



QUESTIONS



CITY COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. L.2

DATE: May 2, 2023

TO: City Council

FROM: Phillip Molina, City Treasurer, (805) 385-7808, phillip.molina@oxnard.org

SUBJECT: City Treasurer's Quarterly Investment Report for the Period Ending March 31, 2023. (10 minutes)

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/YnL7SFWKYsc>

BACKGROUND

The City of Oxnard's March 2023 investment report will be brief during 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 a similar format that has been presented in previous months along with the amounts in the bank statements as of March 31, 2023. The following data is included in this report.

For the month of March, the investment portfolio earned an estimated **\$744,777.71** including LAIF and the Ventura County Investment Pool, and the efficiency rating remained at **98%**, with estimated annual earnings of **\$8,937,332.50**.

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 exceeds 90%. For March we were at **98%** and have exceeded our goal.

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 28, 2023, 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 the detailed list of every investment that the city currently holds as of the last day of March 31, 2023, upon request.

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 answer any questions 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, 2023, was purchased at a tax cost of **\$418,483,303.50**, with a PAR value of **\$418,375,000**. 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.

ITEM	March 2023
Cost of investments (bank calc.)	\$418,483,303.50
Par or face value	\$418,375,000.00

USBank's tax costs and PAR/Face Value

In a market (the city's policy requires a risk-free rate of return) of fixed interest rates, any instrument purchased today will decrease in value as the interest rates increase 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.

Cash balances on the 31st day of March 2023 in each authorized city bank account with Bank of America totaled **\$14,081,416.66** in the four Bank of America accounts.

City Treasurer's bank accounts	March 2023
City's General Fund bank account	\$7,369,615.75
Successor Agency bank account	\$6,397,145.42
W/C (workers compensation) account	\$82,611.83
Parking Citations updated	\$232,043.66
TOTAL CASH IN BANK ACCOUNTS	\$14,081,416.66

(Per Bank Statements as of March 31, 2023)

The investments have a par value of **\$ 418,375,000.00** and an estimated market value of **\$398,670,101.20**. Some were purchased months or years earlier and during the period of forced low GSE interest rates set by the former 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 **2.24%**, 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 2023
Cost of investments (bank calc.)	\$418,483,303.50
Par or face value	\$418,375,000.00
USBank est Market value	\$398,670,101.20

Estimated market value is based on price paid

The largest portfolio's average current earnings have a yield on a 365-day basis of **2.07%** year to date. 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 produced estimated annual interest earnings of **\$8,937,332.50** million:

total est monthly earnings	\$744,777.71
City's investment rate	2.24%
total est annual earnings	\$8,937,332.50

Estimated annual and monthly earnings

Now, when we look back at the monthly cash flows of recent years, we find that the month with the highest cash outflow was 2018 with a one-month outflow of \$37.4 million. And the fact that we have \$65 million invested in LAIF and \$31 million 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, and how much cash is invested to determine the efficiency of the team. The goal is to invest 100% of the available cash, and we know that for normal/average operations we should retain a daily balance of \$3-5 million in the bank accounts. For the month of March, our efficiency rating is **98%**.

	March 2023
amount invested @ tax cost	\$418,483,303.50
total available cash to invest	\$426,167,574.74
percent invested = efficiency	98%

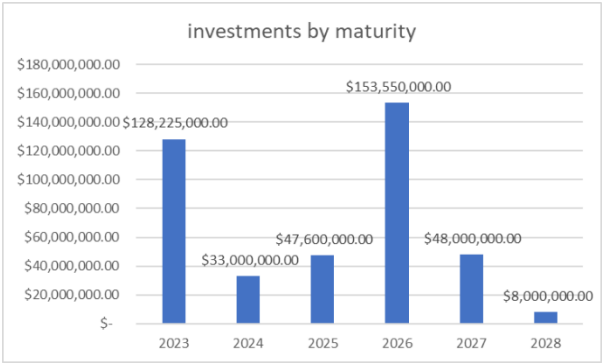
Efficiency Rating

The daily cash report for the last working day in March shows sufficient available cash to satisfy the city's booked short-term obligations.

Report prepared by Eden Alomeri:

DAILY CASH POSITION WORKSHEET - GENERAL ACCOUNT		
DATE: 03/29/23		
	CREDIT ESTIMATE	DESCRIPTION
Collected/Closing Avail Bal	\$13,905,410.50	As of 03/28/23
1 Day Float	\$312,459.40	As of 03/28/23
Credit Cards-C2G/OTC	\$109,981.18	
Auto Pay	\$23,974.91	
Other	\$45,456.54	Co of Vta
Other	\$17,368.95	Co of Vta
Other		
TOTAL CREDITS	\$14,414,651.48	
	DEBIT ESTIMATE	
Accounts Payable to Clear	\$300,000.00	
Payroll Taxes	\$258,245.05	PIT
Payroll Taxes	\$19,333.20	SDI
TOTAL DEBITS	\$577,578.25	
GENERAL ACCOUNT BALANCE	\$13,837,073.23	
SUCCESSOR AGENCY	\$6,397,145.42	
LAIF	\$75,000,000.00	
VCIP	\$31,000,000.00	
* Pending Payments:		
3/30 A/P	\$1,000,000.00	
3/30 Purchases	\$6,000,000.00	
3/31 CalPERS	\$1,000,000.00	
Total	\$8,000,000.00	

The bar chart below shows the maturities of the 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 .79 % or higher as explained above.



Details of investments are 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.3

DATE: May 2, 2023

TO: City Council

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

SUBJECT: Professional Services Agreement 32300386 with COAR Design Group for the Fire Stations No. 2, 3 and 4 for Professional Architectural and Engineering Design Services. (10 minutes)

RECOMMENDATION

That the City Council approve and authorize:

1. The execution of an Agreement with COAR Design Group, in the amount of \$5,414,207 for professional design services for new Fire Stations No. 2, 3, and 4 (Project Nos. C1702/172201 and C2255/22AR54); and
2. A project budget appropriation transfer in the amount of \$550,000 in the Capital Growth Fees Fund (355) from the Fire Station No. 4 Project (Project No. C1702/172201) to the Fire Stations No. 2, 3, and 5 Project (Project No. C2255/22AR54).

(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/mTlWRP7mYjc>

BACKGROUND

The City of Oxnard's existing Fire Stations No. 2, 3, and 4 have all reached the end of their useful life cycles and are in need of replacement to ensure fire protection services. To continue providing essential services to the City of Oxnard and to plan for the City's future growth, the Fire Department is in need of designing and constructing these fire stations with new facilities.

All three fire stations will be designed under one agreement with the Architect. As part of this project, temporary housing/dormitory trailers for Fire Stations No. 2 and 3 will be designed to be constructed on the existing sites of Fire Stations No. 2 and 3. This is to ensure that Fire Stations No. 2 and 3 can operate efficiently to respond to emergency calls during construction. Fire Stations No. 2 and 3 will include the demolition of existing buildings and the construction of the new stations at the existing Fire Station locations. New Fire Station No. 4 will be located on a separate 9-acre site on land currently owned by the City, which is located along the 288 Block of Ventura Road. It is anticipated that approximately two acres will be dedicated and or subdivided for constructing the new Fire Station No. 4.

Capital Improvement Project (CIP) Reference:

Project Nos. **C1702/172201 and C2255/22AR54** - Fire Station No. 4 and Fire Stations No. 2, 3, 5 - CIP 2022-2027 - Adopted May 3, 2022 - Pages 6 and 10.

DISCUSSION

The Fire Department has prioritized the design and construction of Fire Stations No. 2, 3, and 4 in accordance with the Fire Station Facility Assessment Report prepared by Jacob Green & Associate dated November 16, 2021, which considers and lists the priorities for reconstructing the fire stations. Please note that the current CIP budget, approved by Council, includes a project titled “Oxnard Fire Stations No. 2, 3, 5”. Since the Fire Department has prioritized station No. 4 over station No. 5, this proposed design contract does not include work for Fire Station No. 5. A future project will be recommended for the Council’s consideration for Fire Station No. 5 design/construction during the next CIP budget process.

The notice inviting Request for Proposals (RFP) from qualified consultants for architecture and engineering design services for the project was published on September 19, 2022, and all proposals were due on October 26, 2022. The specific work for this contract includes Community Outreach, Architecture and Engineering Design Services, and Development of an Operations and Maintenance Manual. The scope of work also includes Construction Administration Coordination services to ensure that the construction being performed by the contractor is in conformance with the contract specifications developed by the consultant in collaboration with the City. The selected consultant team will work closely with the City’s Project Manager, Fire Department and Public Work staff to successfully complete the project.

The City received a total of four proposals, which included COAR Design Group (COAR), HMC Architects, Studio 2G Architects, and The Taylor Group LLP. Staff scored all four proposals using a standardized scoring sheet pursuant to the Oxnard Municipal Code. The top three highest scored firms were then interviewed on December 15 and 16, 2022 for final selection. City staff consisting of the Fire Chief, City Engineer, and the Senior Project Manager evaluated qualifications for all consultants. In addition to the above staff, the Public Works Director and the Supervising Civil Engineer participated in the interview of the top three firms. The Selection Committee ultimately recommended COAR after several interviews as the most qualified firm to satisfactorily provide pre-design (Survey, Geotechnical, Site Assessment Phase I & II evaluation, California Environmental Quality Act clearance) and architecture/engineering professional services for the project. Following this determination, staff reviewed all documentation received from COAR and verified and approved possession of the required currently valid certificate of insurance.

Based upon the available information and research performed to date, staff believes that the consultant is capable of satisfactorily completing the project. As a result, the City and COAR negotiated the proposed consultant fee to include a comprehensive scope in the contract. Staff recommends that the contract for this scope be awarded to COAR for a 6-year period, which includes designer support during the construction phase.

After negotiating the final cost proposal from COAR for Fire Station 2, 3, and 4, the following identifies the design costs for each of the two CIP projects.:

Fire Stations Nos. 2 and 3 require a total funding allocation of \$3,219,175
Fire Station No. 4 requires a total funding allocation of \$2,195,032

Now that we have actual costs from the recommended design firm, staff recommends adjusting the original budget estimates of the two CIP projects to account for costs in the correct CIP project and to maintain funding source integrity. Specifically, staff recommends transferring \$550,000 of Capital Growth Fees from the Fire Station No. 4 Project to the Fire Stations No. 2, 3, and 5 Project. This will allow sufficient funding for the three Fire Stations to cover the total amount of budget needed for the design of each of the fire stations. This recommended transfer amount will also address the budget needed for staff time during the design phase.

This is a major step forward in achieving one of the City Council's 5-Year Priorities, “Maintain fire protection services”. Fire Stations No. 2, 3, and 4 have passed their useful lives and are in need of replacement. Additionally, due to the growth of the City, it is required to design and construct modern fire stations in order to respond to higher numbers of emergency calls in the safest manner possible.

The pre-design phase will commence as soon as the contract is executed and the Notice to Proceed is issued and soon thereafter the team will commence the project kick-off meeting. There will be an outreach community workshop to gather input from the community based on an initial conceptual design finalizing programming for the Fire Stations No. 2, 3, and 4.

The total project schedule from the design of temporary and permanent fire stations to bid and award, construction and operation of all the three fire stations will take approximately six years. This is because the fire stations have to be operational at the existing sites while construction is being performed. Fire Stations No. 2 and 3 will be potentially bid and awarded as one contract and will be under construction either simultaneously or in tandem.

ESTIMATED PROJECT TIMELINE

ITEM	DESIGN & PERMIT	BID & AWARD	CONSTRUCTION	POST-CONSTRUCTION
F.S. No. 2 Temporary facility, Demotion, Design & New Construction	06/2023 to 06/2026	07/2026 to 12/2026	01/2027 to 07/2028	08/2028 to 02/2029
F.S. No. 3 Temporary facility, Demolition, Design & New Construction	06/2023 to 06/2026	07/2026 to 12/2026	01/2027 to 07/2028	08/2028 to 02/2029
F.S. No. 4 New Design & Construction	06/2023 to 06/2026	07/2026 to 12/2026	01/2027 to 01/2029	02/2029 to 06/2029

STRATEGIC PRIORITIES

This agenda item supports Public Safety strategy. The purpose of the Public Safety strategy is to restore and modernize the delivery of public safety services to provide for the safety of our neighborhoods and health of our community.

FINANCIAL IMPACT

The total cost for this Agreement with COAR Design Group shall not exceed \$5,414,207. There is sufficient available funds in the Fire Stations Nos. 2, 3, and 5 (Project No. C2255/22AR54) and Fire Station No. 4 (Project No. C1702/172201) project budgets in the City Council approved budget.

Staff is requesting a transfer of \$550,000 in the Capital Growth Fees Fund (355) in project budget appropriations from the Fire Station No. 4 project (Project No. C1702/172201) to the Fire Stations No. 2, 3, and 5 Project (Project NO. C2255/22AR54). This recommended transfer amount will also address the budget needed for staff time during the design phase.

PROJECT	FUNDING SOURCE	PROJECT BUDGET APPROPRIATION TRANSFER	AVAILABLE PROJECT APPROPRIATIONS
Fire Stations No. 2,3,5 C2255/22AR54	American Rescue Plan Act (ARPA) Fund 320	\$0	\$3,549,227*
	Capital Growth Fees Fund 355	+\$550,000	
Fire Station No. 4 C1702/172201	Capital Growth Fees Fund 355	-\$550,000	\$1,150,000
	Capital Growth Fees Fund 355		\$2,000,000**
TOTAL		\$0	\$6,699,227

*Including additional ARPA funding of \$2M discussed at Council on February 7, 2023

**Pending Council approval of the CIP update on May 2, 2023 City Council agenda.

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: Nikolas Boas, Supervising Civil Engineer

ATTACHMENTS

1. Agreement 32300386
2. Presentation

**CONSULTANT/PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF OXNARD AND COAR Design Group**

By This Consultant/Professional Services Agreement ("Agreement"), the CITY of Oxnard ("CITY") agrees to engage the services of COAR Design Group ("CONSULTANT"), and CONSULTANT agrees to perform the services for CITY as herein described, for the compensation, during the term, and otherwise subject to the covenants and conditions herein set forth. CITY and CONSULTANT may be individually referred to as "Party" or collectively as the "Parties."

1. SUMMARY DESCRIPTION OF SERVICES. Architecture and Engineering Services for Fire Station Nos. 2, 3, and 4 Project

2. PARTIES.

CITY of Oxnard ("CITY"), a general law and municipal corporation of the State of California, located at 300 West Third Street, Oxnard California 93030

COAR Design Group ("CONSULTANT"), a corporation of the State of California, located at 9640 Granite Ridge Drive, Ste 130, San Diego, CA 92123

3. TERM OF AGREEMENT: From (Date): April 25, 2023 To (Date): April 24, 2029

3.1 Time is of the essence in this Agreement.

3.2 [INTENTIONALLY OMITTED]

3.3 [INTENTIONALLY OMITTED]

3.4 All services required of CONSULTANT under this Agreement shall be completed on or before the end of the term of the Agreement.

4. AGREEMENT AMOUNT: \$5,414,207.

5. AGREEMENT EXHIBITS.

The following documents memorialized below are the only exhibits to this agreement and are incorporated by reference as though fully set forth herein. In the event of a conflict between the Exhibits and this Agreement, the Agreement controls.

Exhibit A: Scope of Services

Exhibit B: Schedule of Compensation
Exhibit C: Insurance Requirements
Exhibit D: Living Wage Policy
Exhibit E: Prevailing Wage Policy
Exhibit F: Iran Contracting Act Certification

6. DESIGNATED REPRESENTATIVES.

The Designated Representatives listed below shall be authorized to act on behalf of the named Party, be responsible for negotiations and contractual matters, and coordinate with each other to perform the services under this Agreement. Additionally, CONSULTANT's services shall be performed or immediately supervised by the CONSULTANT's Representative:

CITY Designated Representative:	CONSULTANT Designated Representative:
Name: Reza Bagherzadeh	Name: Jeff Katz
Title: Sr. Project Manager	Title: Principal
Phone: (805) 271-2280	Phone: (707) 544-3920
Email: reza.bagherzadeh@oxnard.org	Email: Jeff@coargroup.com
Mailing Address (if differs from above): 305 West Third Street Oxnard, CA 93030	Mailing Address (if differs from above):

7. CONTRACTUAL PREREQUISITES.

7.1 This Agreement must first be executed by the CONSULTANT, after which the Agreement shall be approved as to form by the CITY Attorney, then executed by the Mayor, or an authorized person on behalf of the CITY, and if executed by the Mayor shall also be executed by the CITY Clerk.

7.2 CONSULTANT is advised that any recommendation for AGREEMENT award is not binding on CITY until the AGREEMENT is fully executed and approved by CITY.

7.3 A request for modification of the terms, prior to execution of the Agreement, must be made in writing and presented to the Designated Representative of the CITY prior to the time this Agreement is executed.

7.4 All proof of business license, insurance, and W-9 forms is required prior to execution of this Agreement.

7.5 CONSULTANT shall not perform any work under this Agreement until a proof of insurance has been provided to the City as required under Section 24 of this Agreement.

8. CONSULTANT'S SERVICES.

8.1 CONSULTANT shall perform the tasks, obligations, and services set forth in the "Scope of Services," attached to and incorporated into this Agreement as "Exhibit A." Once this Agreement is executed, the Scope of Services may only be modified by written Amendment pursuant to Section 12 of this Agreement.

8.2 The Services shall be coordinated with the designated City Project Manager set forth in Exhibit A subject to the direction of the City Manager or Department Director. CONSULTANT hereby designates its Project Manager as set forth in "Exhibit A" as the person responsible for the Services who shall coordinate with City's Project Manager in executing the scope of services under this Agreement.

9. COMPENSATION.

CITY shall pay CONSULTANT for the services performed pursuant to the terms of this Agreement in the time and manner set forth in the "Schedule of Compensation," attached to and incorporated into this Agreement as "Exhibit B." CITY shall pay CONSULTANT an amount not to exceed the amount that is listed in "Exhibit B." Once this Agreement is executed, the Schedule of Compensation may only be modified by written Amendment pursuant to Section 12 of this Agreement, and may be subject to approval by the City Council.

10. PAYMENT & INVOICES.

The CITY shall pay all undisputed portions of any applicable invoice within forty-five (45) days after receipt of an invoice. In the event the CITY disputes one or more items in an invoice, the CITY shall, within forty-five (45) days after receipt of such invoice, notify the CONSULTANT of the item(s) being disputed and the reason(s) therefore. The CITY may withhold payment for such disputed items until resolution of the dispute.

10.1 Payment Request. CONSULTANT shall submit a payment request to CITY by the end of each calendar month listing the Services provided, costs of those Services, and total amount due for the month. Invoices may be emailed to: pwinvoices@oxnard.org and the project manager.

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

10.3 CONSULTANT's acceptance of final payment made pursuant to this Agreement shall constitute a release of CITY from all claims and liabilities for compensation to CONSULTANT for anything completed, finished or relating to the Services. CITY's payment shall not constitute nor be deemed a release of the responsibility and liability of CONSULTANT for the accuracy and competency of the information provided and/or the Services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by CITY for any defect or error in the Services performed by CONSULTANT and its employees, agents and Subcontracted CONSULTANTS.

10.4 CONSULTANT shall provide CITY with a completed Request for Taxpayer Identification Number and Certification, as issued by the Internal Revenue Service. If any sales tax is due for the Services performed by CONSULTANT or materials or products provided to CITY by CONSULTANT, CONSULTANT shall pay the sales tax. CITY shall not reimburse CONSULTANT for sales taxes paid by CONSULTANT.

11. OPTION TO EXTEND AGREEMENT.

When in the CITY's best interest, this Agreement may only be extended, if the City in its discretion exercises the option to extend pursuant to Section 3.2 and 3.3 of the Agreement. The initial term, plus any option to extend, shall not exceed a total of five (5) years. **If no option to extend the Agreement appears in sections 3.2 and 3.3, this Agreement shall not be extended.**

12. MODIFICATION OF AGREEMENT.

This Agreement may be amended, modified, or otherwise altered, or its provisions waived, only upon mutual consent of the Parties by written amendment, and as authorized by the Oxnard Municipal Code, Article IV, Sections 4-59 and 4-60.

13. TERMINATION OF AGREEMENT.

CITY may terminate this Agreement at any time, with or without cause and without penalty, upon fifteen (15) calendar days' prior written notice pursuant to Section 31 of this agreement. Such termination shall be effective on the date specified in the notice, or if no date is specified, then fifteen (15) calendar days from the date of the notice. CITY shall be liable to CONSULTANT only for work done by CONSULTANT up to and including the date of termination of this Agreement unless the termination is for cause, in which event CONSULTANT need be compensated only to the extent required by law. CONSULTANT may terminate this Agreement at any time during the term of the Agreement by giving the CITY sixty (60) calendar days' prior written notice.

14. INDEPENDENT CONTRACTOR

CONSULTANT is and shall at all times remain, as to CITY, a wholly independent contractor. Neither CITY nor any of its employees or agents shall have control over the conduct of CONSULTANT or any of its employees, except as stated in this Agreement. CONSULTANT has and shall retain the right to exercise full control over the employment, direction, means of performance, location, compensation and discharge of all persons assisting CONSULTANT. This Agreement shall not be interpreted to prevent or preclude CONSULTANT from rendering any services for CONSULTANT's own account or to any other person or entity as CONSULTANT in its sole discretion shall determine; provided, however, that performing such services shall not materially interfere with the Services the CONSULTANT shall perform for the CITY. The CITY retains the right to provide general instructions to and observe the CONSULTANT in the performance of all services done on behalf of the CITY.

CONSULTANT and its employees and agents have no authority, express or implied, to act on behalf of CITY in any capacity, to incur any debt, obligation or liability on behalf of CITY, bind CITY in any manner, or otherwise act on behalf of CITY as an agent. CONSULTANT and its employees are not employees of CITY. CONSULTANT and its employees are not entitled to receive from CITY any of the benefits or rights afforded employees of CITY, including but not limited to reserve leave, sick leave, vacation leave, holiday leave, compensatory leave, Public Employees Retirement System benefits, and health, life, dental, long-term disability and workers' compensation insurance benefits. CONSULTANT shall not, at any time or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of CITY.

15. LAWFUL PERFORMANCE.

CONSULTANT shall abide by all Federal, State, and Local Laws and Regulations as may be related to the performance of duties under this Agreement. CONSULTANT, at its sole expense, shall obtain and maintain during the term of this Agreement, all appropriate permits, licenses, and certificates that may be required in connection with the performance of services under this Agreement.

16. SAFETY REQUIREMENTS.

CONSULTANT shall not perform any services for the CITY when the CONSULTANT is impaired by alcohol or a controlled substance. When there is reasonable cause to believe that any person has violated this provision, that person shall be immediately removed from the premises and be subject to any applicable civil and/or criminal penalties under the CITY's Code and/or under state law. All work performed under this Agreement shall be performed in such a manner as to provide safety to the public. The CITY reserves the right to issue restraining or cease and desist orders to CONSULTANT when unsafe or harmful acts are observed or reported relative to the performance of the work under this Agreement. The acceptance of CONSULTANT's work by CITY shall not operate as a release of the CONSULTANT from such standard of care and workmanship.

17. OWNERSHIP OF CONSULTANT'S WORK PRODUCT, CONFIDENTIALITY & DISCLOSURE.

CITY shall be the owner of any and all technical documents and records, including, computations, plans, correspondence, and/or other pertinent data and information, both hard copy and electronic, gathered or prepared by CONSULTANT in performance of this Agreement and shall be entitled to immediate possession of the same upon completion of the work under this Agreement, or at any earlier or later time when the same may be requested by CITY.

17.1. Records and Inspections. The CONSULTANT shall maintain full and accurate records, with respect to all services and matters covered under this Agreement. The CITY shall have free access at all reasonable times to such records, both hard copy and electronic, and the right to examine and audit the same and to make transcripts therefrom, and to inspect all program data, documents, proceedings, and activities.

17.2. Deliverables. CONSULTANT shall deliver to the CITY the studies, plans, specifications, or other documents as are identified in the Scope of Services; and CONSULTANT shall, upon completion of all work or termination of this Agreement, submit to the CITY all information developed in the course of the CONSULTANT's services. CONSULTANT shall, in such time and in such form as the CITY may require, furnish reports concerning the status of services required under this Agreement. CONSULTANT shall, upon request by CITY and upon completion or termination of this Agreement, deliver to the CITY all material furnished to CONSULTANT by the CITY.

17.3. Ownership – Generally. All inventions, discoveries, enhancements, changes, or improvements of computer programs developed pursuant to this Agreement shall be the property of the CITY, and all patents or copyrights shall be assigned to the CITY, unless otherwise agreed. CONSULTANT agrees that CITY may make modifications to computer software furnished by CONSULTANT without infringing CONSULTANT's copyright or any license granted to CITY, unless otherwise agreed.

17.4. Ownership of Documents. Every report, draft, work product, map, record, and other document reproduced, prepared, or caused to be prepared by the CONSULTANT pursuant to or in connection with this Agreement shall be the exclusive property of the CITY.

17.5. Confidentiality. Information that is exempt from disclosure to the public is confidential. This includes information relating to the past, present, or future affairs of the CITY or information belonging to a third party whose information is in the CITY's possession or control under obligations of confidentiality. CONSULTANT may be granted access to information that is exempt from

disclosure to the public (Government Code Section 6254 and 6254.16) and may contain "trade secrets" (see Government Code Section 6254.7(d)) when it is necessary for CONSULTANT to perform its obligations pursuant to this Agreement. If CONSULTANT is granted such access to confidential information, CONSULTANT shall not be considered to be a member of the public as that term is used in Government Code Section 6254.5.

17.6. Disclosure of Information. CONSULTANT shall not disclose, publish, or authorize others to disclose or publish, design data, drawings, specifications, reports, or other information pertaining to the projects assigned to CONSULTANT by the CITY or other information to which the CONSULTANT has had access during the term of this Agreement without the prior written approval of the CITY's Designated Representative during the term of this Agreement and for a period of two (2) years after the termination of this Agreement.

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

18. ASSIGNMENT.

This Agreement is for the professional services of CONSULTANT. Any attempt by CONSULTANT to assign the benefits or burdens of this Agreement without the prior written approval of CITY shall be prohibited and shall be null and void. CONSULTANT's services pursuant to this Agreement shall be provided by the CONSULTANT's Designated Representative or directly under his/her supervision, and CONSULTANT shall not assign another to supervise the CONSULTANT's performance of this Agreement without the prior written approval of CITY, by and through the CITY's Designated Representative.

19. NOTICE OF BREACH AND OPPORTUNITY TO CURE.

Neither Party will be in breach of this Agreement where the breach is capable of being cured, or until written notice of the breach is received from the non-breaching Party. The Party charged with breach will have fifteen (15) calendar days from the date of receiving such notice in which to cure the breach or otherwise respond. If the circumstances leading to the charge that the Agreement was breached have not been cured or explained to the satisfaction of the other Party within fifteen (15) days from the date on which the breaching Party received notice of breach, the non-breaching Party may terminate this Agreement.

20. NOTICE.

All notices given or required to be given pursuant to this Agreement shall be in writing and may be given by personal delivery or by first-class mail. Notice sent by mail shall be addressed to each Party's Designated Representative as set forth above in Section 6. When addressed in accordance with this Section, such notice shall be deemed given upon deposit in the United States mail, postage prepaid. In all other instances, notices shall be deemed given at the time of actual delivery. Changes may be made in the names or addresses of persons to whom notices are to be given by giving notice in the manner prescribed in this Section.

21. COVENANTS AND CONDITIONS.

Each term and each provision of this Agreement to be performed by CONSULTANT shall be construed to be both a covenant and a condition.

22. WAIVER.

CITY's review or acceptance of, or payment for, work product prepared by CONSULTANT under this Agreement will not be construed to operate as a waiver of any rights CITY may have under this Agreement or of any cause of action arising from CONSULTANT's performance. A waiver by CITY of any breach of any term, covenant, or condition contained in this Agreement will not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained in this Agreement, whether of the same or different character.

23. INDEMNIFICATION, HOLD HARMLESS & DEFENSE.

23.1 As a separate and independent covenant from CONSULTANT's obligations under this section, CONSULTANT shall to the fullest extent permitted by law, 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 CONSULTANT's performance of this Agreement or CONSULTANT's failure to comply with any of its obligations contained in this Agreement. Liabilities subject to the duties to defend and indemnify include, without limitation, all claims, losses, damages, penalties, fines, and judgments; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative dispute resolution. CONSULTANT's obligation to indemnify applies unless it is adjudicated that any of the liabilities covered by this Section are the result of the sole active negligence or sole willful misconduct of any of the Indemnitees.

23.2 The duty to defend is a separate and distinct obligation from CONSULTANT's duty to indemnify. CONSULTANT shall be obligated to defend in all legal, equitable, administrative, or special proceedings, with counsel approved by the CITY Attorney, immediately upon tender to CONSULTANT of

the claim in any form or at any stage of an action or proceeding, whether or not liability is established. An allegation or determination of negligence or willful misconduct by any of the Indemnitees shall not relieve CONSULTANT 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 CONSULTANT 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, CONSULTANT may submit a claim to CITY for reimbursement of reasonable attorneys' fees and defense costs.

23.3 The provisions of this Subsection 23.3 apply only in the event that CONSULTANT is a design professional within the meaning of California Civil Code section 2782.8 ("Design Professional"). The term Design Professional, as defined in said section, is limited to licensed architects, licensed landscape architects, registered professional engineers, professional land surveyors, and the business entities that offer such services in accordance with the applicable provisions of the California Business and Professions Code.

23.3.1 Notwithstanding the provisions of Subsections 23.1 and 23.2 above, to the extent that the services to be provided under this Agreement are those of a Design Professional, CONSULTANT's duty to indemnify, hold harmless, and defend the Indemnitees shall be limited to the extent that any claims arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONSULTANT, its officers, agents, employees or subconsultants in the performance of the services described in this Agreement.

23.3.2 In no event shall the costs of defense charged to CONSULTANT exceed the CONSULTANT's proportionate percentage of fault, except as otherwise set forth in said Civil Code section 2782.8, the provisions of which are incorporated into this Agreement by this reference. Nothing in this Subsection 23.3 shall be construed to require CONSULTANT to provide indemnification for claims caused by the active negligence or willful misconduct of the Indemnitees.

23.4 The review, acceptance or approval of CONSULTANT's work or work product by any of the Indemnitees shall not affect, relieve or reduce CONSULTANT's indemnification or defense obligations. CONSULTANT waives any right of contribution against CITY or any of CITY's officers, employees, agents, or volunteers arising out of such failure to inspect, review, monitor, or supervise the work performed by CONSULTANT pursuant to this Agreement. The provisions of this Section shall not be restricted by and do not affect the provisions of this Agreement relating to Section 24. The CONSULTANT's obligations under this Section of the Agreement shall survive the termination of the Agreement.

23.5 CONSULTANT agrees to pay all required taxes on amounts paid to CONSULTANT under this Agreement, and to indemnify and hold CITY harmless from any and all taxes, assessments, penalties, and interest asserted against CITY by reason of the independent contractor relationship created by this Agreement. CONSULTANT shall be solely responsible for, and shall save CITY harmless from, all matters relating to the payment of CONSULTANT's subcontractors, material suppliers, directors, officers, employees, agents and representatives, including compliance with social security requirements, federal and State income tax withholding, and all other regulations governing employer-employee relations, as applicable. CITY shall have the right to offset against the amount of any compensation due to CONSULTANT under this Agreement any amount due to CITY from CONSULTANT as a result of its failure to promptly pay to CITY any reimbursement or indemnification arising under this Section.

24. INSURANCE.

CONSULTANT shall obtain and maintain during the performance of any services under this Agreement the insurance coverages listed within "Exhibit C", which is attached hereto and incorporated herein by this reference, unless the Risk Manager waives, in writing, the requirement that CONSULTANT obtain and maintain such insurance coverages. Such insurance must be issued by a company satisfactory to the Risk Manager. CONSULTANT shall, before performance of any services pursuant to this Agreement, file with the Risk Manager evidence of insurance coverage as specified in "Exhibit C". Maintenance of insurance coverages by CONSULTANT is a material element of this Agreement. CONSULTANT'S failure to maintain or renew insurance coverages or to provide renewal evidence shall be considered a material breach of this Agreement.

25. LIVING WAGE REQUIREMENTS.

During the term of this Agreement, CONSULTANT understands and agrees that if Living Wages are applicable subject to the 2002 Oxnard City Council Living Wage Policy, attached as "Exhibit D" to this Agreement, CONSULTANT will pay and/or provide the wages and/or benefits required therein to all of its employees engaged in whole or in part in performing the services provided for by this Agreement. The duty to pay the correct wage is the responsibility of the CONSULTANT.

26. PREVAILING WAGE REQUIREMENTS.

26.1. Application. The payment of State prevailing wages as designated for Ventura County shall apply to public works projects. However, this section shall not apply to work performed on a public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction, alteration, demolition, installation, or repair work; or to work performed on a public works project of fifteen thousand dollars (\$15,000) or less when the project is for

maintenance work. Prevailing wages are required to be paid to all workers, including subcontracted employees.

26.2. Compliance with California Department of Industrial Relations (DIR).

To determine if this Agreement is subject to compliance monitoring and enforcement, go to:

<https://www.dir.ca.gov/Public-Works/PublicWorksSB854FAQ.html>

26.3. Contract Splitting. It is unlawful to split, or separate into small portions, work orders, projects, purchases, or public works projects for the purpose of evading these prevailing wage requirements.

26.4. Use of Prevailing Wages vs. Living Wages. In the event that there is a difference between the amount of wages to be paid under the CITY of Oxnard's local Living Wage requirements and the requirements of this provision, the wage rate that is the higher of the two shall be applicable to this Agreement. The duty to pay the correct wage is the responsibility of the CONSULTANT.

27. IRAN CONTRACTING ACT

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.

28. CONFLICT OF INTEREST

CONSULTANT covenants that it does not have any interest, nor shall it acquire any interest, directly or indirectly, which would conflict in any manner with the performance of CONSULTANT's services under this Agreement. CONSULTANT further covenants that in the performance of services under this Agreement, no officer, employee or agent of CONSULTANT having such interest shall be employed by it. In the event the CITY determines that CONSULTANT must disclose its financial interests by completing and filing a Fair Political Practices Commission Form 700, Statement of Economic Interests, CONSULTANT shall file such Form 700 with the CITY Clerk's Office pursuant to the written instructions provided by the CITY Clerk. Acquisition or maintenance of a conflicting interest by CONSULTANT may result in termination of this Agreement by the CITY.

29. [RESERVED] -

30. DISPUTES.

Except as otherwise provided in these provisions, any dispute concerning a question of fact arising under this Agreement, shall be decided by the CITY's Designated Representative, who shall reduce this decision to writing and mail a copy to the CONSULTANT. The decision of the CITY's Designated Representative shall be final and conclusive unless CONSULTANT requests mediation within ten (10) calendar days. Pending final decision of a dispute, the CONSULTANT shall proceed diligently with the performance of the Agreement and in accordance with the decision of the CITY's Designated Representative.

31. DISPUTE RESOLUTION.

Should an unresolved dispute arise out of this Agreement, any Party may request that it be submitted to mediation. The Parties shall meet in mediation within a reasonable time not to exceed forty five (45) days of a request. The mediator shall be agreed to by the mediating Parties. In the absence of an agreement on a mediator, the Parties shall each submit one name from mediators listed by the American Arbitration Association, the California State Board of Mediation and Conciliation, or other agreed-upon service. The mediator shall be selected by a "blindfold" process. The cost of mediation shall be borne equally by both Parties. Neither Party shall be deemed the prevailing Party. No Party shall be permitted to file a legal action without first meeting in mediation and making a good faith attempt to reach a mediated settlement. The mediation process, once commenced by a meeting with the mediator, shall last until agreement is reached by the Parties but not more than sixty (60) calendar days, unless the maximum time is extended in writing by both Parties.

32. AUDIT.

CITY shall have the option of inspecting, auditing and/or reproducing all records and other written materials: used by CONSULTANT in preparing its billings to CITY as a condition precedent to any payment to CONSULTANT; 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 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.

33. ADVERTISING AND PUBLICITY

CONSULTANT 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.

34. NONDISCRIMINATORY EMPLOYMENT.

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

35. FORCE MAJEURE.

Neither the CONSULTANT nor the CITY shall be responsible for any delay caused by any contingency beyond their control, including, but not limited to, war or insurrection, walkouts by the Party's own employees, fires, natural calamities, riots, or demands or requirements of governmental agencies other than the CITY.

36. GOVERNING LAW.

The terms of this Agreement shall be interpreted according to the laws of the State of California. Should litigation occur, venue shall be in the Superior Court of California, County of Ventura.

37. SEVERABILITY.

If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, then such portion will be deemed modified to the extent necessary in the opinion of the court to render such portion enforceable and, as so modified, such portion and the balance of this Agreement will continue in full force and effect and be enforceable.

38. INTEGRATED AGREEMENT.

This Agreement and the attached exhibits referenced herein to this Agreement represent the entire understanding between the Parties. No verbal agreement or implied covenant shall be held to vary the provisions of this Agreement. This Agreement shall bind and inure to the benefit of the Parties to this Agreement and any subsequent successors and assigns.

39. NO THIRD-PARTY BENEFICIARY.

This Agreement shall not be construed to be an agreement for the benefit of any third-party or parties, and no third party or parties shall have any claim or right of action under this Agreement.

40. AUTHORITY TO EXECUTE.

Each Party hereto expressly warrants and represents that through its Designated Representative it has the authority to execute this Agreement on behalf of its corporation, partnership, business entity, or governmental entity, and warrants and represents that the Designated Representative has the authority to bind each Party to the performance of its obligations hereunder.

41. EXECUTION – COUNTERPARTS.

This Agreement may be executed in any number of counterparts and each such duplicate counterpart shall constitute an original, but they shall not be effective nor enforceable unless and until it is executed with the handwritten signature of an authorized representative of each of the relevant Parties. No counterpart shall be deemed to be an original or presumed delivered unless and until the counterpart executed by the other Party to this Agreement is in the physical possession of the Party seeking enforcement thereof.

42. INCONSISTENT OR CONFLICTING TERMS.

In the event of any contradictions or inconsistencies between any attached documents or exhibits incorporated by reference herein and the provisions of the Agreement itself, the terms of the Agreement shall control. Any exhibit that is attached and incorporated by reference shall be limited to the purposes for which it is attached, as specified in this Agreement. Any contractual terms or conditions contained in such exhibit imposing additional obligations on the CITY are not binding upon the CITY's Designated Representative unless specifically agreed to in writing, and initiated by CITY's Designated Representative, as to each additional contractual term or condition.

43. CAPTIONS AND HEADINGS.

The captions and headings contained in this Agreement are provided for identification purposes only and shall not be interpreted to limit or define the content, scope, or intent of the provisions described under the respective caption or heading.

44. ACKNOWLEDGEMENT.

By signing below, CONSULTANT acknowledges that it has reviewed the CITY's CONSULTANT/Professional Services Agreement terms and conditions and insurance requirements and that CONSULTANT hereby agrees to full compliance.

[Signatures on next page]

In witness whereof, the Parties have entered into this Agreement on the date as written in section 3 and upon signature of all Parties.

CITY OF OXNARD

COAR DESIGN GROUP

☒ John C. Zaragoza, Mayor¹ _____ Date _____
☐ Jennifer Yates, Purchasing Manager² _____

Jeff Katz, President _____ Date _____

Jeff Katz, Secretary³ _____ Date _____

ATTEST:

Rose Chaparro, CITY Clerk _____ Date _____
(only if Mayor authorizes)

APPROVED AS TO FORM:

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

¹ The City Council must authorize and the Mayor must execute any agreement over \$200,000.

² The Purchasing Agent may execute any authorized agreement up to \$200,000.

³ 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

CONSULTANT/PROFESSIONAL SERVICE AGREEMENT (CITY of Oxnard and Coar Design Group)

SCOPE OF SERVICES

This work includes up to three (3) community meetings, community outreach, various City presentations (Council meetings, Director's Advisory Committee & Planning Commission), predesign/feasibility analysis, architectural design, engineering specifications, cost benefit-analysis, cost estimating, bid documents, construction administration, as well as an Operations & Maintenance (O&M) Manual for the Project.

Task 1: Program Management

1. Project Management. Consultant shall coordinate all efforts of the Project Team including representatives from various City of Oxnard (City) departments. The Consultant shall facilitate weekly regular Project progress meetings during all phases of the project and provide monthly written updates on the Project status and budget.

2. Project Kick-off Meeting. At the commencement of the Project, the Consultant shall facilitate a "kick-off" meeting with the City staff to discuss the scope and parameters of the Projects. The Consultant shall prepare and distribute a draft agenda in advance of the meeting for review and comment by the City. The Consultant shall prepare and distribute meeting minutes within three (3) business days of the meeting. The Consultant shall assume three (3) hours for the kick-off meeting with staff members.

3. Progress Meetings. Consultant shall attend monthly meetings at the City for the duration of the project and budget for weekly meetings. As part of the effort, the Consultant is responsible for developing meeting information and agenda prior to the meeting and meeting minutes within three (3) business days following the meeting with a complete action tracking log. The Consultant shall assume two (2) hours for each meeting.

4. Project Schedule. Consultant shall develop a project schedule at the beginning of each of the fire station projects that covers schematic design, design development, final plans specifications, and estimates (PS&E), bid/award support services, and construction phase. Project schedule shall be submitted with the proposal and shall be updated within two (2) weeks of the kickoff meeting.

5. Project Communication. Consultant shall develop a communications protocol to be followed by all team members to be submitted within one (1) week of starting the project. Communication protocol will include standard project communication as well as emergency communication protocols.

6. Project Coordination. Consultant shall coordinate all of the services of sub-consultants including site visits, site inspections, and shall ensure coordination with the City operations, project manager and engineering staff and other interested parties as outlined by the City.

7. Quality Assurance and Quality Control (QA/QC). The Consultant shall develop a QA/QC plan, to be followed for all submittals, within two (2) weeks of starting the project. The plan shall include the staff that is responsible for reviewing design and documentation as well as the means for integrating review comments from the City.

Invoicing. The Consultant shall submit invoices on a deliverable basis (predesign activity, Schematic Design, Design Development, 50% Construction Document, 90% Construction Document, 100% Construction Documents, which include permits, bid & award, Construction Admin. On a monthly basis) with all supporting documentation in a format acceptable to the City. Invoices requiring amendment shall be dated according to when the revised invoice is delivered to the City. Invoices shall be delivered electronically to the Project Manager and to PWInvoices@Oxnard.org. A sample of progress payment will be given to the awarded consultant for submitting and approving payment through the duration of projects.

Task 2: Data Gathering, Site Visits, and Preliminary Investigations

The Consultant shall review and assess existing data and reports relative to the project and conduct all necessary site visits, investigations and analyses required to identify and mitigate project issues that could impact or be impacted by the project including:

- Existing records and as-built plans, permits, original records/reports
- CEQA compliance
- Site Assessment Phase I & II as deem necessary
- Geotechnica, liquefaction tests & hazmat exploration/investigation, including complete soil analysis as deem necessary
- Low Impact Development (LID) requirements
- Survey, mapping and utility investigation
- All reports shall be per the governing agencies, City, County, State and federal

Task 3: Permitting

The Consultant shall develop a Permit Plan for the project. The Permit Plan will identify all permits required for the design and construction. The Permit Plan shall include, but not limited to the following:

1. Ventura County Air Pollution Control District.
 2. Ventura County Environmental Health Department.
 3. City of Oxnard Community Development Services.
- The Consultant shall perform and prepare all required CEQA documentation (i.e. CEQA checklist, initial study, notice of preparation, etc.) and supporting environmental information (i.e. Categorical Exemption, Negative Declaration, Environmental Impact Report, etc.). The Consultant shall be responsible for all public notices, mailings and filing fees (City will reimburse the consultants for all fees upon submittals of the receipts).
 - i. For budgetary purposes, Consultant shall include reasonable amounts in its budget for a categorical exemption, negative declaration, or mitigated negative declaration as a total estimate for the permitting work.
 - ii. The Consultant shall be responsible for all CEQA documentation, and shall incorporate any mitigation required by an environmental determination into the facility design.
 - iii. The Consultant shall be responsible for presenting at the Planning Commission and preparing presentation materials as necessary.

All permits deemed to be the responsibility of the City shall be obtained by the Consultant on the City's behalf. The Consultant shall prepare and submit all plans and supporting documentation necessary to obtain plan check and permit approvals for all required permits. The City will provide payment for all permit fees or if asked by the City the consultant will pay the permit fees and submit invoices as reimbursable with receipts on the next progress payment.

Task 4: Schematic Design

This phase of work will generate a refined site design for the project through an iterative process. With the information gathered during the data collection and community engagement process, create a design for the project, including, but not limited to:

1. Prepare design study alternatives for areas
2. Refine the concept to a final Schematic Design
 - i. Assume three (3) iterations total to get to final Schematic Design. One after each review meeting outlined in Task 3.
3. Preparation of Plans, Specifications and Details and Plant Materials List
4. Coordination with the City's Project Team for design development, review, and discussion (creative design workshops at schematic design phase with Project Team; at kickoff and 70% design)
5. Coordination with City staff stakeholders as needed for design development, review, and discussion
6. Amenity and building locations with architectural renderings
7. Planting locations and plant palettes for native and drought resistant landscaping
8. Identify irrigation needs, feasibility, and resources available
9. Lighting design fixture selection and location
10. Identify locations and feasibility of integration of stormwater infiltration/permeable pavement
11. Class C Cost estimate – 2 iterations
12. Operation & Maintenance guideline

Deliverable

Schematic design package shall include three (3) hardcopies of schematic plans, renderings, and palettes along with electronic versions.

Task 5: Design Development

Upon Project Team approval and acceptance of the Schematic Design and cost, Consultant will commence with Design Development. This phase of work shall refine the design and identify all key construction systems, materials, and critical coordination issues. The Design Team will refine the selected Schematic Design and identify all key construction systems, materials, and critical coordination issues while initiating the PS&E process.

Tasks will include:

1. Develop the design to describe the character and construction method for all of the key construction and landscape elements
2. Detailed documentation of all elements within the scope of work, including full specifications. Upon City's approval of design development drawings and cost, Consultant will fully document all aspects of the design, including all relevant sections of technical specifications

3. Select key materials for site elements
4. Preparation of plans, specifications, details and outline specifications
5. Coordination of landscape design with civil engineering/ grading design and documentation
6. Coordination with the City's Project Team for design review and discussion
7. Class B Cost estimate – 2 iterations
8. Coordination of documents with specialist subcontractors,
9. Prepare drawings and data in Revit/BIM and pdf formats and provide such drawings and data to Project Manager
10. Perspectives, sketches, and renderings as necessary to indicate the architectural and landscaping character of the project and its relationship to the pedestrian level shall be discussed with the Project Team, and provided to the Project Manager
11. Samples of proposed vegetation and related elements shall be discussed with the Project Team and provided to the Project Manager
12. 100% Design Development Plans
13. 100% Design Development Details
14. 100% Design Development Outline Specifications
15. 100% Design Development Cost Estimate
16. Meetings with Project Team
17. Coordinate CEQA Compliance Documentation

Deliverable

Design development package shall include three (3) hardcopies of 22' x 34" plans and specifications along with electronic versions.

Task 6: 50% & Final PS&E

50% & 90% Design: Drawings and specifications from the preliminary design phase shall be modified to account for any remaining design changes as a result of the design development review. At the end of the 50% & 90% design phase, drawings and specifications shall be complete. The following tasks are to be completed:

- Demolition plans and details
- Temporary trailer design, cost estimate & permit for Fire Station No. 2 & or 3
- Architectural drawings and details
- Landscape architectural drawings and details
- Civil drawings and details (grading and public improvements)
- Structural drawings and details
- Mechanical/Plumbing drawings and details
- Electrical drawings (equipment, instrumentation) and details
- Instrumentation and control drawings
- Complete Specifications
- LEED Requirements
- Construction cost estimate – 2 iterations
- Incorporation of all plan check comments from permitting authorities into the Final Design Submittal.

Deliverable

50% & 90% design package shall include three (3) hardcopies of 22' x 34" plans and specifications along with electronic versions.

Final Design Submittal: During the final design phase, final comments from the 90% design submittal shall be incorporated into the drawings and specifications. This final submittal will be considered the bid set. Tasks include:

- Production of final architectural and engineering drawings
- Production of final architectural and engineering specifications
- The Consultant shall prepare an estimate of probable construction cost for the 100% design package. The final 100% cost estimate shall be transmitted along with the final 100% design package.

Final drawings shall be signed and sealed by a professional engineer and professional architect registered by the State of California. The Consultant shall provide three (3) sets of 11" x 17" drawings, three (3) sets of 22" x 34" (D Size) drawings, four (4) sets of specifications, and an electronic copy in PDF format of the final design package for bid purposes. All drawings shall be prepared using a latest version of Revit BIM and .dwg files be delivered to the City as part of the final submittal.

Task 7: Operation & Maintenance Plan

The Consultant shall establish operation and maintenance (O&M) standards:

1. Research and develop a manual of O&M requirements for this facility, including maintenance tasks, frequencies, and recommended facility closures to allow for O&M.
2. Specify any maintenance items, the frequency of the maintenance activity and describe any specialized equipment necessary to complete the maintenance activity. The contractor shall utilize published reference materials (e.g., Ventura County Stormwater Technical Guidance Manual) related to O&M and engage the team as needed. The recommended maintenance standards should be consistent with any existing standards for the same practice.
3. Identify and describe any operational tasks for the facility that are either required for effective performance of the project or recommended. These operational tasks are in addition to routine maintenance tasks that may be needed for the effective operation of the project.
4. The draft manual should include the approximate cost of O&M and how that relates to the design life of a project.
5. The final manual should incorporate the comments and feedback from the City's team prior to final delivery. This shall include updates to the approximate cost of O&M.

Deliverable

The draft O&M manual shall be electronic only and shall be submitted along with Task 5 - Schematic Design. The final O&M manual shall include three (3) hardcopies along with electronic versions and shall be submitted along with Task 7 - Final PS&E.

Task 8: Bid & Award Phase Services

The Consultant shall provide assistance to the City during the project advertisement and award period. Bid phase assistance shall include, at a minimum, the following:

1. Response to requests for information (RFIs) and requests for clarification (RFCs) received during the bid period. Consultant shall provide a written response to questions within two (2) business days of questions received during the bidding period. The responses shall be provided in short memorandum format with the question and response shown.
2. Attendance and participation in the mandatory pre-bid meeting.

3. The Consultant shall incorporate all addenda issued during the Bid Period into a conformed set of contract documents.

Task 9: Construction Phase & Post Construction Phase Services

Architectural and engineering services during construction shall include, at a minimum, the following:

1. Preconstruction Meeting: Attendance and participation in the Pre-Construction Meeting.
2. Project Progress Meetings: Attendance and participation in the Weekly Project Progress Meetings with the City and the Construction Manager to discuss the status of the Project and potential Project issues. The Consultant shall budget two (2) hours for each Project Progress Meeting, and one (1) hour travel time to and from meeting for a total of three 3 hours. The Consultant shall budget for twenty month duration of the construction and post construction phase.
3. Submittal Review: Consultant shall review all shop drawing and material submittals transmitted by the construction contractor. The Consultant shall budget for a total of 20 submittals and a minimum of three 3 hours for the first review. The Consultant shall budget for 25% of all submittals will require a resubmittal and additional review with a minimum of 1.5 hours budgeted for each resubmittal.
4. Change Order Review: Consultant shall review all change order requests submitted by the construction contractor. The Consultant shall review each request and make a formal statement regarding entitlement and the merit of the contractor's request. The Consultant shall budget for three change order requests to be submitted during the construction phase. The Consultant shall budget a minimum of eight (8) hours for each change order request.
5. Project Close-out: The Consultant shall assist in the development of Project punch lists and coordinate the delivery of all Project-related documentation.
6. Record Drawings: The Consultant shall prepare a record drawing set based on the red-line drawings submitted by the construction contractor. The record drawings shall be prepared using a latest version of Revit/BIM or later and shall be transmitted to the City within 30 calendar days of receipt of the contractor's red-line drawings. Electronic copies of the record drawings shall be submitted to the City in both Revit/BIM and PDF formats. In addition, the Consultant shall submit three (3) hard copies of the record drawings on 22" x 34" bond paper. Throughout the construction phase duration, the consultant is responsible to review the as-built drawing with the contractor on a monthly basis to ensure the as-built drawings are being recorded as per the project progress until the completion of the project.

Task 10: As Needed Support Work

1. As needed support related outreach, design, specification, bid document development, and Operation & Maintenance Manual development for the Fire Station No 2, 3 & 4 projects
2. All as Needed Support Work must be pre authorized in writing by the Project Manager
3. All As Needed support Work (Extra Services & amendment to the contract) shall be at the maximum of 10% added to the direct cost

Additional Scope Refinement (In lieu of Exhibit G)

CEQA Scope

Existing Fire Station No. 2/3: Based on information provided in the Project Request For Proposal, the City is proposing to increase the footprint and overall square footage of the fire station. In addition to an increased footprint and intensity over existing conditions, the proximity of the existing fire station to single-family residences suggests that demolition and construction-related activities could generate substantial noise that could impact nearby noise sensitive land uses (NSLUs). While the City's Municipal Code exempts construction noise from the City's noise standards provided that the construction activities take place between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, including Saturday, it is likely necessary that temporary construction activities be modeled from a noise generation perspective to disclose potential temporary noise levels in the surrounding area. Further and assuming potentially significant temporary noise levels occur during construction and implementation of successful noise attenuating mitigation measures, preparation of a Mitigated Negative Declaration (MND) would be appropriate and provide the necessary coverage under CEQA. While the City may elect to pursue preparation of an EIR based on the proximity of nearby residences and assumed community concerns over demolition and construction impacts, an EIR is unlikely to be necessary based on the scope of the Project, existing neighborhood presence of the fire station, and assumed success of mitigation measures in reducing temporary construction noise impacts to a less than significant level. With the exception of the Notice of Exemption approach, that the above referenced technical analysis would be packaged in the body of the environmental document.

Notice of Exemption Scope/Categorical Exemption (NOE/CE)

If it is determined that the project qualifies for a Notice of Exemption (Station 2/3 only) Coar can provide a brief analysis to support the City's determination. If that is all that is required Coar can provide those services for a Not To Exceed fee as noted in the spreadsheet.

In some cases, to obtain the Categorical Exemption additional documentation is required. In that case Coar will prepare a notice of exemption pursuant to CEQA. The notice of exemption will be brief and consist of a completed State Clearinghouse NOE form for the project. In addition, a brief assessment of exceptions to the exemptions as described in CEQA Guidelines Section 15300.2 (a) through (f) and the proposed improvements will be included. Coar will ensure all requirements to meet preparation of a categorical exemption are met to substantiate this level of CEQA review. If it is later determined that a categorical exemption is not the appropriate level of CEQA review for the proposed project, Coar will discuss the options available to meet CEQA requirements with City staff. Based on a cursory review of the Fire Station No. 2 and 3 site, the following technical analyses would be necessary to fully evaluate proposed demolition and construction activities and support the finding that the project is exempt from CEQA:

- Air Quality and Greenhouse Gases
 - Air Quality and Greenhouse Gas Emissions Assessments
 - Health Risk Assessment
- Biological Resources Assessment
- Cultural Resources and Built Environment Assessment
- Noise and Vibration Analysis

Initial Study/Mitigated Negative Declaration (as appropriate for Station 2,3 & 4)

Administrative Draft IS/MND

Coar will prepare a project-level IS/MND that focuses on the demolition and construction aspects of the project. The IS/MND will be consistent with the procedural and substantive provisions of CEQA Guidelines Sections 15063 and 15072 and Appendices C and G. The IS/MND will provide a Project Description and will summarize the results of the technical analyses prepared in support of the project. As noted in the list above of technical analyses to be prepared in support of the project will include Traffic Studies, Hazardous Materials Analysis, Cultural Resources and Noise and Vibration Analysis. The objective of this task is to prepare a comprehensive, accurate, and objective project-level IS/MND for development of the proposed project that fully complies with CEQA and the CEQA Guidelines and all applicable guidance and procedures established by the City for the purpose of environmental review. If significant impacts and mitigation measures are identified in the technical analyses, a Mitigation Monitoring Management Plan (MMRP) would be provided separately, but prepared concurrently with the Administrative Draft IS/MND. The MMRP will be designed to ensure compliance with all adopted mitigation measures during project implementation. The MMRP will be in table format and will specify project-specific mitigation measures, as well as standard conditions of approval that are applicable to the project, if requested by the City. The objective of the MMRP is to ensure compliance with Public Resources Code Section 21081.6, as mandated by Assembly Bill 3180 (Cortese 1988), which requires that a lead agency adopt an MMRP at the time an IS/MND is certified. The main purpose of the Draft IS/MND will be to analyze the environmental impacts of the proposed project thoroughly and accurately. The methodology and criteria used for determining the impacts of the project will be clearly and explicitly described in the IS/MND, including any assumptions, models, or modeling techniques used in the analysis. The IS/MND will be prepared in conformance with a City-approved Initial Study checklist format (if available) and the NOC would be consistent with CEQA Guidelines Appendix C. All CEQA issue areas will be sufficiently analyzed in the IS/MND. All appropriate mitigation measures for these resources would be included in the IS/MND (if an MND is prepared) and incorporated into the MMRP. All modeling results and other data associated with technical analyses will be included as appendix material to the Draft IS/MND.

Public Review Draft IS/MND

Coar will prepare a Draft IS/MND (for a 30-day public review) and MMRP (assuming a MND (and not an ND or other document) is prepared) that incorporates all City staff review comments received on the Administrative Draft IS/MND. Coar will provide the project team with copies of the Draft IS/MND and MMRP (if required) for distribution to internal City departments and any responsible/trustee agencies and interested parties, as needed. Coar would prepare the Draft IS/MND, NOC, and necessary filing forms (e.g., OPR Summary Form, NOI). Consistent with current guidance from the State Clearinghouse, the consultant with approval of City, would submit the Draft IS/MND and associated notices and forms electronically to the State Clearinghouse. City would be responsible for any applicable filing fees and transmittal of the Draft IS/MND and NOI to the Ventura County Clerk. Coar will coordinate the necessary noticing and mailings for Public Notice of the project.

Administrative Draft Final IS/MND

The Response to Comments volume of the Administrative Draft Final IS/MND will include all comments received, responses to those comments, and standard introductory material. All comments will be numbered (to indicate comment letter and comment number), and the responses to those comments will be similarly numbered to allow easy correlation. In addition, where the text of the Draft IS/MND must be revised, the text will be isolated as “text changes” in the Response to Comments, indicating deleted text

by ~~strikeout~~ and inserted text by double- underline. The text of the Draft IS/MND will not be revised. The Final IS/MND will collectively consist of the Draft IS/MND, and the Response to Comments document. Coar will coordinate the necessary noticing and mailings for Public Notice of the project.

Final IS/MND

Coar will prepare a Final IS/MND and MMRP (if required) that incorporates all the comments on the Administrative Final IS/MND and MMRP (if required). If required, Coar will distribute the Final IS/MND to commenting agencies, which would include appropriate persons or agencies on City's mailing list and any public agency that commented on the Draft IS/MND. Public agencies that commented on the Draft IS/MND would be provided with a Final IS/MND by City at least 10 days prior to the meeting during which City would consider certification of the Final IS/MND. Coar would prepare the Notice of Determination (NOD) and City would file with the Ventura County Clerk, assuming the Final IS/MND is certified.

The scope of services will include compiling all supporting documentation needed to support the City throughout the CEQA process including all submittals, mailing lists and public notices needed to successfully complete the CEQA process including all necessary hearings and public meetings.

Environmental Impact Report (as appropriate for Station 2,3 & 4)

Notice of Preparation, Initial Study, and Scoping Meeting

Coar will prepare an NOP and Initial Study (IS), using a City-approved Initial Study checklist format. The IS/NOP will be used to narrow the focus of the environmental issues addressed in the EIR, as appropriate. Coar will prepare a first draft IS/NOP in electronic format. Upon receipt of comments, and revise accordingly and submit a revised draft IS/NOP for final review before preparing the final IS/NOP for public review.

Draft Environmental Impact Report

Coar will use the City-adopted thresholds of significance and City-approved EIR format to the first Draft EIR. The EIR will address the environmental issues in CEQA's Appendix G and will be formatted as follows:

Table of Contents. The table of contents will contain a list of EIR contents, including text discussions and lists of tables and exhibits. It will also include a list of appendices that will be attached to the EIR.

Executive Summary. Pursuant to Section 15123 of the CEQA Guidelines, the summary will contain an overview of the proposed Project, including a list of required discretionary approvals. The summary will also include a summary of impacts and mitigation measures, known areas of controversy including issues raised by agencies and the public, and a summary of alternatives to the proposed Project.

Introduction. The introduction section of the EIR will define the purpose, scope, and legislative authority of the EIR, CEQA requirements, and other pertinent environmental rules and regulations. This section will also describe the EIR process, structure, and required contents, as well as its relationship to other potential responsible or trustee agencies. A summary table of comment letters received on the NOP will be included in this section, with notation about where the issue is addressed in the EIR. An overview of the EIR's format and content as well as processing requirements will also be provided in this introductory section.

Environmental Setting. This section will provide an overview of the local and regional environmental setting of the project (CEQA Guidelines Section 15125). This EIR section will provide a description of the existing site conditions, including a description of the natural resources contained on the Project site. This section also discusses regulatory issues, including local and regional planning documents and regulatory considerations (e.g. hillside management, Significant Ecological Area).

Project Description. A detailed description of all of the project components and site plan details will be included, as well as a description of short-term construction and long-term operational activities. The project description also includes a discussion of the intended uses of the EIR and a list of permits and approvals required to implement the project.

Environmental Impact Analysis. Each environmental impact section will include the following sections:

- Environmental Setting
- Relevant Plans, Policies, and Ordinances
- Thresholds of Significance
- Environmental Impact Analysis
- Cumulative Impacts
- Mitigation Measures
- Significance After Mitigation
- References

Coar will conduct the environmental analysis of the Project based on the data, background information, and technical studies prepared to support the Draft EIR. Information from technical analyses will be synthesized into the Draft EIR. This scope of work includes time to obtain the data and identify what additional information or analysis is necessary to complete the environmental review required by the County. Based on our understanding of the project, the following environmental topics will be evaluated in the EIR: Air Quality, Cultural Resources, GHG Emissions, Noise, and Tribal Cultural Resources.

Each environmental impact section of the EIR will be written to include a discussion of relevant issues as necessary. For each environmental issue, summarized in the following paragraphs, the EIR will describe existing conditions, thresholds of significance, potential environmental impacts, an analysis of significance, and recommended mitigation measures designed to reduce or avoid any potential significant impact(s) identified.

CEQA Mandated EIR Sections

Coar will analyze and prepare all additional CEQA mandated EIR sections in accordance with the criteria, standards, and procedures of CEQA and the Guidelines as amended. This analysis will include a discussion of the irreversible environmental changes that could result from the proposed Project, unavoidable significant impacts and growth-inducing impacts. This section will also include a summary of the effects determined not to be significant, including those topics that were scoped out through the IS.

Alternatives

The alternatives section will be prepared to meet the objectives of the CEQA Guidelines by addressing alternatives to the project as proposed. Each alternative will be evaluated with respect to the environmental issue areas reviewed for the proposed project. As required by the CEQA Guidelines, the environmental advantages and disadvantages of each alternative and the reasons for rejecting or recommending it will be provided. This section will include a discussion of potential alternatives that were considered but were determined to be infeasible, and therefore not assessed in detail. The

environmentally superior alternative will be identified. This scope assumes that three alternatives will be carried forward for analysis evaluated in the Draft EIR.

References, Persons, Agencies Contacted and EIR Preparation

The EIR will contain a list of all references and persons and agencies contacted that were used in preparation of the EIR. In addition, the EIR will list all persons involved in the preparation of the documents and their title and role.

Appendices

The Draft EIR appendices will include the NOP, Initial Study, and NOP responses, and the various technical reports that were used to prepare the Draft EIR.

The scope of services will include compiling all supporting documentation needed to support the City throughout the CEQA process including all submittals, mailing lists and public notices needed to successfully complete the CEQA process including all necessary hearings and public meetings.

ADDITIONAL SERVICES TO BE PROVIDED ON AN HOURLY BASIS

The following items are not included in the Basic Services, and will be provided as additional services only after written authorization is received. Unless a subsequent fixed fee proposal is provided, the work will be done on an hourly basis per the attached Hourly Rate Schedule.

Additional Services not included in our basic scope of work include:

1. Revisions to City approved Schematic Design or Contract Documents resulting from Owner requested changes to documents previously approved by the Owner, or due to code or zoning changes made subsequent to Owner approval, such as direction from the City Building Official). The projects will be designed to comply with the 2022 Building Code currently in effect which will cover the anticipated period of design (2023-2026).
2. Services required because of significant changes in the project (not due to the design team's acts or omissions) including, but not limited to, size, quality, complexity, schedule, or the method for bidding and contracting for construction.
3. Processing change requests for Owner requested changes, and for unforeseen site conditions, after bid, including revisions to Contract Documents, processing approval of revisions through the Building Department, and Change Order negotiation.
4. Providing services made necessary by the default of the Contractor, by major deficiencies in the work of the Contractor, or by failure of performance of either the Owner or the Contractor under the Contract for Construction.
5. Providing "Special Inspection" services required by law or the Contract Documents.
6. Preparation of ALTA Surveys, Title Reports, Easement adjustments, Deeds, construction staking or other documents in conjunction with the project site.

7. Commissioning and Enhanced Commissioning Services.
8. Design of photo-voltaic electrical generation systems to support all electric or zero net energy (ZNE) building, or solar hot water systems (infrastructure as required by code is a part of basic services).
9. Plan check fees and permit fees (if paid by the consultant) will be a reimbursable expense, charged at 1.0 times the Consultant's cost.
10. All delivery, printing and reproduction costs will be a reimbursable expense, charged at 1.0 times the Consultant's cost.
11. The scope of services will include compiling all supporting documentation needed to support the City throughout the CEQA process including all submittals, mailing lists and public notices needed to successfully complete the CEQA process including all necessary hearings and public meetings for each of the three stations.

EXHIBIT B

**CONSULTANT/PROFESSIONAL SERVICE AGREEMENT
(CITY of Oxnard and Coar Design Group)**

SCHEDULE OF COMPENSATION

	PROFESSIONAL DESIGN FEES	
1	Standard Architectural and Engineering (A/E) Fees	\$3,616,203
2	Non-Standard A/E fees	
	Impact Sciences: CEQA – Up to a Not to Exceed Fees for	
	EIR as the worst case scenario	\$532,740
3	Geocon: Geotechnical Engineering ECG:	\$111,740
4	Land Surveyor	\$43,000
5	LEED Certification - Optional	\$200,505
6	Reclaimed Water Design - Optional	\$17,820
7	Fire Protection system Design	\$110,000
8	Traffic Engineering	\$50,000
7	SUB-TOTAL BASIC SERVICES LUMP SUM AMOUNT	\$4,682,007
6	Reimbursable Expenses Budget	\$ 240,000
7	SUBTOTAL SERVICES INCLUDING REIMBURSABLE	\$4,922,007
8	Project Contingency of about 10%	\$492,200
9	TOTAL SERVICES LUMP SUM CONSULTANT AMOUNT	\$5,414,207
10	*Allowance for a deduction if FS #2 &3 are designed in a similar way	-\$236,000

*** The allowance provides for an overall cost savings or cost deduction from the lump sum amount in line 9 if the station design for fire stations No. 2 and No. 3 share a similar architectural and engineering design.**

REIMBURSABLE EXPENSES

Reimbursable expenses shall be billed at a cost and shall include actual expenditures made in the interest of the project, in the following categories:

- Outside consultants beyond those listed in the attached matrix
- Expense of transportation and living expenses in connection with out-of-town travel, as authorized by the Client
- Reproduction and photography
- Postage, shipping, and delivery
- Fees paid for securing approval of authorities having jurisdiction over the project
- Professional renderings and models as requested by the Client
- Attendance at Workshops/Meetings/Construction Site Visits as described below.

A budget of \$240,000 has been established for reimbursable expenses. This budget is included within the Basic Services Lump Sum Fee previously stated and is about 5.0% of the total A/E Fees (Standard and Non-Standard). It is understood that if the reimbursable budget needs increasing, upon mutual agreement by the City and COAR Design Group, the increase will occur via an Additional Services Request and/or Contract Amendment. This is especially important to note with respect to services provided by non-standard A/E consultants for land surveying, geotechnical engineering and CEQA.

HOURLY RATE SCHEDULE

COAR

Design Group
Previously JKA

The following rates apply to work performed on an hourly basis.

Principal Architect (Jeff Katz)	\$ 260.00 per hour
Design Principal (Christie Jewett)	\$ 220.00 per hour
Project Manager (Malina Villanueva, Chris Mcmurry)..	\$ 220.00 per hour
QC Manager (Matt Kingdon)	\$ 220.00 per hour
Job Captain	\$ 145.00 per hour
Drafter	\$ 120.00 per hour

Reimbursable Expenses will be charged at 1.0 times the direct cost.

Note: These rates will remain in effect until April 25, 2029, at which time they may be adjusted as a result of salary reviews and contract extension.

COAR DESIGN GROUP FIRE STATION 2-3-4 TOTAL FEES		TOTAL FEE - STATION 2	TOTAL FEE - STATION 3	TOTAL FEE - STATION 4	TOTAL FEES
Task Description					
1	Program Management	\$ 5,970	\$ 5,970	\$ 10,310	\$ 22,250
2	Data Gathering, Site Visits, and Preliminary Investigations	\$ 97,145	\$ 97,145	\$ 118,610	\$ 312,900
3	Permitting	\$ 5,420	\$ 5,420	\$ 13,830	\$ 24,670
4	Schematic Design	\$ 160,375	\$ 160,355	\$ 233,205	\$ 553,935
5	Design Development	\$ 231,610	\$ 232,025	\$ 387,730	\$ 851,365
6	50% & Final PS&E	\$ 357,350	\$ 355,160	\$ 472,780	\$ 1,185,290
7	Operation & Maintenance Plan	\$ 11,715	\$ 11,715	\$ 12,310	\$ 35,740
8	Bid & Award Phase Services	\$ 12,125	\$ 11,815	\$ 17,590	\$ 41,530
9	Construction Phase *	\$ 197,376	\$ 198,276	\$ 267,006	\$ 662,658
10	Post Construction Phase Services *	\$ 23,838	\$ 25,008	\$ 31,758	\$ 80,604
TOTAL		\$1,102,924	\$1,102,889	\$1,565,129	\$3,770,942
11	LEED Certification	\$ 66,835	\$ 66,835	\$ 66,835	\$ 200,505
12	Reclaimed Water Design	\$ 5,940	\$ 5,940	\$ 5,940	\$ 17,820
TOTAL		\$1,175,699	\$1,175,664	\$1,637,904	\$3,989,267
	CEQA - EIR (Scope to be refined and invoiced T&M). Not to Exceed amount included	\$177,580	\$177,580	\$177,580	\$ 532,740
	Fire Protection Engineering **	\$30,000	\$30,000	\$50,000	\$ 110,000
	Traffic Engineering			\$50,000	\$ 50,000
	Reimbursable Cost Allowance	\$80,000	\$80,000	\$80,000	\$240,000
TOTAL LUMP SUM CONTRACT		\$1,463,279	\$1,463,244	\$1,995,484	\$4,922,007
	ALLOWANCE: Potential Cost Savings for Station 2/3 similar designs - similar deduction taken at each station (to be negotiated at conclusion of Schematic Design)	-\$118,000	-\$118,000		-\$236,000

COAR DESIGN GROUP MANPOWER BREAK DOWN		Principal / In-Charge Architect	Design Coord Manager	Job Captain	Draftsman	TOTAL HOURS	COAR TOTAL LABOR FEE	Diez - Structural Engineering	ELLEN - Electrical Engineering	McParlane & Associates - Mechanical Engineering	KTUA - Landscape Architect	Delane - Civil Engineering	Survey - Delane - Civil Engineering	DGP - LEED Consulting	Geocom - Geotechnical	TOTAL FEE
	billing rate	\$260.00	\$220.00	\$145.00	\$120.00											
	Task Description															
1	Program Management	4	10			14	\$ 3,240	\$ 850	\$ -	\$ -	\$ 620	\$ 750		\$ -	\$ 510	\$ 5,970
2	Data Gathering, Site Visits, and Preliminary Investigations	24	24	60	60	168	\$ 27,420	\$ 1,700	\$ 4,465	\$ 11,530	\$ 2,480	\$ 1,060	\$ 12,500	\$ -	\$ 35,990	\$ 97,145
3	Permitting	4	12	12		28	\$ 5,420	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -	\$ 5,420
4	Schematic Design	24	80	120	200	424	\$ 65,240	\$ 18,900	\$ 22,800	\$ 22,780	\$ 11,305	\$ 19,350		\$ -	\$ -	\$ 160,375
5	Design Development	24	120	240	400	784	\$ 115,440	\$ 20,600	\$ 22,800	\$ 32,780	\$ 14,010	\$ 25,980		\$ -	\$ -	\$ 231,610
6	50% & Final PS&E	40	200	400	600	1,240	\$ 184,400	\$ 48,200	\$ 22,800	\$ 32,780	\$ 28,060	\$ 40,600		\$ -	\$ 510	\$ 357,350
7	Operation & Maintenance Plan	4	24			28	\$ 6,320	\$ -	\$ 1,800	\$ 1,115	\$ 2,480	\$ -		\$ -	\$ -	\$ 11,715
8	Bid & Award Phase Services	4	4	12	12	32	\$ 5,100	\$ 1,540	\$ 1,800	\$ 1,115	\$ 1,820	\$ 750		\$ -	\$ -	\$ 12,125
9	Construction Phase *	24	200	200	80	504	\$ 106,608	\$ 22,680	\$ 22,878	\$ 9,990	\$ 15,012	\$ 17,760		\$ -	\$ 2,448	\$ 197,376
10	Post Construction Phase Services *	8	24		24	56	\$ 12,288	\$ -	\$ 2,238	\$ -	\$ 2,688	\$ 6,624		\$ -	\$ -	\$ 23,838
TOTAL		420	918	1,189	1,496	3,278	\$531,476	\$114,470	\$101,581	\$112,090	\$78,475	\$112,874	\$12,500	\$0	\$39,458	\$1,102,924
11	LEED Certification	8	80	40		128	\$ 25,480	\$ -	\$ -	\$ -	\$ 6,755	\$ -		\$ 34,600	\$ -	\$ 66,835
12	Reclaimed Water Design		8			8	\$ 1,760	\$ -	\$ -	\$ -	\$ 4,180	\$ -		\$ -	\$ -	\$ 5,940
TOTAL																\$1,175,699
	CEQA - EIR (Scope to be refined and invoiced T&M). Not to Exceed amount included															\$177,580
	Fire Protection Engineering **															\$30,000
	Reimbursable Cost Allowance															\$80,000
TOTAL LUMP SUM CONTRACT																\$1,463,279
ALLOWANCE: Potential Cost Savings for Station 2/3 similar designs - similar deduction taken at each station (to be negotiated at conclusion of Schematic Design)																-\$118,000

- Notes:
- * CA and Post Construction Fees escalated for 6 year contract duration
 - Temp Facilities design assumes all utilities exist on site and no discretionary approvals are required. Building permit effort included
 - ** Fire Protection in original proposal assumed performance specifications for fire alarm and sprinkler systems. Cost noted above assumes full system engineered as part of construction documents

GEOCON CONSULTANTS MANPOWER BREAK DOWN		Senior Engineer/Geologist	Project Engineer/Geologist	Staff Engineer/Geologist	*Staff Engineer/Geologist (PM)	Staff Engineer/Geologist (PM - OT)	Draftsman	Admin / Word Processing	Drilling Subcontractor (Lump Sum)	Geophysical Subcontractor	Drum Disposal Subcontractor (Lump Sum)	Laboratory Testing (Lump Sum)	Drilling Permit	*Soils Inspector with Equipment	*Soils Inspector with Equipment	TOTAL HOURS	TOTAL LABOR FEE	REIMBURSABLE EXPENSES	TOTAL FEE
	billing rate	\$170.00	\$150.00	\$120.00	\$170.00	\$255.00	\$90.00	\$90.00	\$6,270.00	\$6,595.00	\$1,330.00	\$2,730.00	\$515.00	\$160.00	\$160.00				
	Task Description																		
1	Program Management	3														3	\$ 510		\$ 510
2	Data Gathering, Site Visits, and Preliminary Investigations	14	38	39	18	4	10	9	1	1	1	1	1			137	\$ 35,990	\$ 3,095	\$ 39,085
3	Permitting															0	\$ -		\$ -
4	Schematic Design															0	\$ -		\$ -
5	Design Development															0	\$ -		\$ -
6	50% & Final PS&E	3														3	\$ 510		\$ 510
7	Operation & Maintenance Plan															0	\$ -		\$ -
8	Bid & Award Phase Services															0	\$ -		\$ -
9	Construction Phase *	12														12	\$ 2,448		\$ 2,448
10	Post Construction Phase Services *															0	\$ -		\$ -
11	LEED Certification															0	\$ -		\$ -
12	Reclaimed Water Design															0	\$ -		\$ -
TOTAL		32	38	39	18	4	10	9	1	1	1	1	1	0	0	155	39458	3095	42553

NOTES:

Fees for all required Geotechnical work are included, including testing for soils, hazardous materials, liquefaction, and Phase I and II reports as required by the City of Oxnard and County of Ventura

ORIE2 ENGINEERING MANPOWER BREAK DOWN		Principal In- Charge	Sr. Engineer	Engineer 1	Engineer II	TOTAL HOURS	TOTAL LABOR FEE	REIMBURSABLE EXPENSES	TOTAL FEE
	billing rate	\$240.00	\$185.00	\$145.00	\$115.00				
	Task Description								
1	Program Management	2	2			4	\$ 850		\$ 850
2	Data Gathering, Site Visits, and Preliminary Investigations	4	4			8	\$ 1,700		\$ 1,700
3	Permitting					0	\$ -		\$ -
4	Schematic Design	20	20	40	40	120	\$ 18,900		\$ 18,900
5	Design Development	24	24	40	40	128	\$ 20,600		\$ 20,600
6	50% & Final PS&E	40	40	120	120	320	\$ 48,200		\$ 48,200
7	Operation & Maintenance Plan					0	\$ -		\$ -
8	Bid & Award Phase Services	2	2		6	10	\$ 1,540		\$ 1,540
9	Construction Phase *	20	20	40	40	120	\$ 22,680		\$ 22,680
10	Post Construction Phase Services *					0	\$ -		\$ -
11	LEED Certification					0	\$ -		\$ -
12	Reclaimed Water Design					0	\$ -		\$ -
TOTAL		112	112	240	246	710	114470	0	114470

ELEN CONSULTING MANPOWER BREAK DOWN		Principal In- Charge	Project Engineer	Drafter	Admin	TOTAL HOURS	TOTAL LABOR FEE	REIMBURSABLE EXPENSES	TOTAL FEE
	billing rate	\$220.00	\$140.00	\$90.00	\$65.00				
	Task Description								
1	Program Management					0	\$ -		\$ -
2	Data Gathering, Site Visits, and Preliminary Investigations	20			1	21	\$ 4,465		\$ 4,465
3	Permitting					0	\$ -		\$ -
4	Schematic Design	20	80	80		180	\$ 22,800		\$ 22,800
5	Design Development	20	80	80		180	\$ 22,800		\$ 22,800
6	50% & Final PS&E	20	80	80		180	\$ 22,800		\$ 22,800
7	Operation & Maintenance Plan	5	5			10	\$ 1,800		\$ 1,800
8	Bid & Award Phase Services	5	5			10	\$ 1,800		\$ 1,800
9	Construction Phase *	40	60	20	1	121	\$ 22,878		\$ 22,878
10	Post Construction Phase Services *			20	1	21	\$ 2,238		\$ 2,238
11	LEED Certification					0	\$ -		\$ -
12	Reclaimed Water Design					0	\$ -		\$ -
TOTAL		130	310	280	3	723	101581	0	101581

MCPARLANE & ASSOCIATES MANPOWER BREAK DOWN		Principal In- Charge	Project Engineer	Drafter	Admin	TOTAL HOURS	TOTAL LABOR FEE	REIMBURSABLE EXPENSES	TOTAL FEE
	billing rate	\$225.00	\$150.00	\$85.00	\$70.00				
	Task Description								
1	Program Management					0	\$ -		\$ -
2	Data Gathering, Site Visits, and Preliminary Investigations	30	30		4	64	\$ 11,530		\$ 11,530
3	Permitting					0	\$ -		\$ -
4	Schematic Design	60	60		4	124	\$ 22,780		\$ 22,780
5	Design Development	40	100	100	4	244	\$ 32,780		\$ 32,780
6	50% & Final PS&E	40	100	100	4	244	\$ 32,780		\$ 32,780
7	Operation & Maintenance Plan	1	5		2	8	\$ 1,115		\$ 1,115
8	Bid & Award Phase Services	1	5		2	8	\$ 1,115		\$ 1,115
9	Construction Phase *	5	40	10	5	60	\$ 9,990		\$ 9,990
10	Post Construction Phase Services *					0	\$ -		\$ -
11	LEED Certification					0	\$ -		\$ -
12	Reclaimed Water Design					0	\$ -		\$ -
TOTAL		177	340	210	25	752	112090	0	112090

KTUA PLANNING & LANDSCAPE ARCHITECTURE MANPOWER BREAK DOWN		Principal Landscape Architect	Senior Landscape Architect	Irrigation Design Manager	Associate Landscape Architect	Landscape Designer	TOTAL HOURS	TOTAL LABOR FEE	REIMBURSABLE EXPENSES	TOTAL FEE
	billing rate	\$185.00	\$175.00	\$175.00	\$135.00	\$115.00				
	Task Description									
1	Program Management		2		2		4	\$ 620		\$ 620
2	Data Gathering, Site Visits, and Preliminary Investigations		1	7	8		16	\$ 2,480		\$ 2,480
3	Permitting						0	\$ -		\$ -
4	Schematic Design	1	14	6	36	24	81	\$ 11,305		\$ 11,305
5	Design Development		12	14	36	40	102	\$ 14,010		\$ 14,010
6	50% & Final PS&E	4	16	32	72	80	204	\$ 28,060		\$ 28,060
7	Operation & Maintenance Plan			8	8		16	\$ 2,480		\$ 2,480
8	Bid & Award Phase Services		2	3	7		12	\$ 1,820		\$ 1,820
9	Construction Phase *		6	30	46		82	\$ 15,012		\$ 15,012
10	Post Construction Phase Services *		1	5	2	8	16	\$ 2,688		\$ 2,688
TOTAL		190	229	280		267	533	78475	0	78475
11	LEED		6	15	16	8	45	\$ 6,755		\$ 6,755
12	RECLAIMED WATER			16		12	28	\$ 4,180		\$ 4,180
TOTAL		0	6	31	16	20	73	10935	0	89410

DELANE ENGINEERING MANPOWER BREAK DOWN		Principal In- Charge	Project Manager	Project Engineer	Designer	TOTAL HOURS	TOTAL LABOR FEE	REIMBURSABLE EXPENSES	TOTAL FEE
	billing rate	\$195.00	\$180.00	\$155.00	\$120.00				
	Task Description								
1	Program Management	2	2			4	\$ 750		\$ 750
2	Data Gathering, Site Visits, and Preliminary Investigations	16	24	24	20	84	\$ 13,560		\$ 13,560
3	Permitting	0	0	0	0	0	\$ -		\$ -
4	Schematic Design	20	40	30	30	120	\$ 19,350		\$ 19,350
5	Design Development	24	40	60	40	164	\$ 25,980		\$ 25,980
6	50% & Final PS&E	40	60	80	80	260	\$ 40,600		\$ 40,600
7	Operation & Maintenance Plan	0	0	0	0	0	\$ -		\$ -
8	Bid & Award Phase Services	2	2			4	\$ 750		\$ 750
9	Construction Phase *	20	30	20	20	90	\$ 17,760		\$ 17,760
10	Post Construction Phase Services *	4	8	12	12	36	\$ 6,624		\$ 6,624
11	LEED Certification					0	\$ -		\$ -
12	Reclaimed Water Design					0	\$ -		\$ -
TOTAL		128	206	226	202	762	125374	0	125374

DGP MANPOWER BREAK DOWN		Principal In- Charge	Project Manager	Project Engineer	Designer	TOTAL HOURS	TOTAL LABOR FEE	REIMBURSABLE EXPENSES	TOTAL FEE
	billing rate	\$195.00	\$180.00	\$155.00	\$120.00				
	Task Description								
1	Program Management					0	\$ -		\$ -
2	Data Gathering, Site Visits, and Preliminary Investigations					0	\$ -		\$ -
3	Permitting					0	\$ -		\$ -
4	Schematic Design					0	\$ -		\$ -
5	Design Development					0	\$ -		\$ -
6	50% & Final PS&E					0	\$ -		\$ -
7	Operation & Maintenance Plan					0	\$ -		\$ -
8	Bid & Award Phase Services					0	\$ -		\$ -
9	Construction Phase *					0	\$ -		\$ -
10	Post Construction Phase Services *					0	\$ -		\$ -
11	LEED Certification	40	80	80		200	\$ 34,600		\$ 34,600
12	Reclaimed Water Design					0	\$ -		\$ -
TOTAL		40	80	80	0	200	34600	0	34600

IMPACT SCIENCES MANPOWER BREAK DOWN													TOTAL MANPOWER HOURS	PERMANENT MANPOWER	TOTAL COST
Task Description	CE	NE	DE	EA	SEA	ES	EA	SEA	ES	EA	SEA	ES			
CE SCOPE													5	\$ -	\$ -
Notice of Exemption - No Report	5	0	4										4	\$ 5,000	\$ 5,000
Kickoff and Project Management	2	2	4										2	\$ 2,000	\$ 2,000
Technical Studies													5	\$ -	\$ -
Air Quality	1		12				30	4					47	\$ 5,110	\$ 5,110
Noise	1		10				20	2					33	\$ 5,040	\$ 5,040
Water Quality (Class 12 Only)	1		1			5							7	\$ 1,300	\$ 1,300
Prepares CDs	2	4	5	12		20	15	5					58	\$ 5,000	\$ 5,000
Meetings / Hearings / Staff Report / Panels	4	4	4										12	\$ 2,700	\$ 2,700
													5	\$ -	\$ -
													5	\$ -	\$ -
TOTAL													98	33,050	\$ 39,150
NE SCOPE													5	\$ -	\$ -
Kickoff and Project Management	4	4	0										2	\$ 4,000	\$ 4,000
Technical Studies													5	\$ -	\$ -
Air Quality	1		10				30	4					42	\$ 11,000	\$ 11,000
Noise	1		10				24	2					40	\$ 7,900	\$ 7,900
Biological Resources	1	10	0	4		40	2						57	\$ 12,900	\$ 12,900
Archaeological Resources	1		14	0	0	20	2						37	\$ 5,000	\$ 5,000
Initial Study/Updated Negative Declaration													5	\$ -	\$ -
Project Description						10							10	\$ 1,500	\$ 1,500
Admin Draft EIS/NE	4			24		40							68	\$ 11,000	\$ 11,000
Public Draft EIS/NE				10		30							40	\$ 7,400	\$ 7,400
Final EIS/NE	1			10		24							45	\$ 7,440	\$ 7,440
Meetings / Hearings / Staff Report / Panels	2	0	4										20	\$ 4,700	\$ 4,700
													5	\$ -	\$ -
TOTAL													400	70,000	\$ 70,000
EA SCOPE													5	\$ -	\$ -
Kickoff and Project Management	0	4	0	00									4	\$ 10,000	\$ 10,000
Technical Studies													5	\$ -	\$ -
Air Quality	1		10				30	4					42	\$ 11,000	\$ 11,000
Noise	1		10				24	2					40	\$ 7,900	\$ 7,900
Biological Resources	1	10	0	4		40	2						57	\$ 12,900	\$ 12,900
Archaeological Resources	1		14	0	0	20	2						37	\$ 5,000	\$ 5,000
Notice of Preparation/Scoping Meeting				10		12	4						32	\$ 5,200	\$ 5,200
Admin Draft EA	2												2	\$ 100	\$ 100
Project Description	2			24									30	\$ 5,000	\$ 5,000
Aesthetics	2												2	\$ 300	\$ 300
Air Quality & Greenhouse Gas Emissions	2	4	0			30							38	\$ 6,470	\$ 6,470
Biological Resources	2		0			10							20	\$ 4,470	\$ 4,470
Cultural Resources	2		0			10							20	\$ 4,470	\$ 4,470
Energy	2		0			24							34	\$ 5,070	\$ 5,070
Geology and Soils	2		0			10							20	\$ 4,470	\$ 4,470
Hazardous Materials	2		0			20							24	\$ 5,070	\$ 5,070
Hydrology and Water Quality	2		0			30							40	\$ 5,570	\$ 5,570
Land Use and Planning	2		0			30							40	\$ 5,570	\$ 5,570
Noise	2	4	0			10							30	\$ 5,070	\$ 5,070
Public Services & Recreation	2		0			10							40	\$ 5,570	\$ 5,570
Transportation	2		0			30							40	\$ 5,570	\$ 5,570
Prepares and Circulate EA				20		20		20					60	\$ 5,200	\$ 5,200
Responses to Comments/Final EA	24	24	24	0	24								104	\$ 21,040	\$ 21,040
Findings & Statement of Overriding Considerations	10	10	10	0									30	\$ 5,100	\$ 5,100
Meetings / Hearings / Staff Report / Panels	10		10										20	\$ 5,500	\$ 5,500
													5	\$ -	\$ -
TOTAL													580	177,000	\$ 177,000

COAR DESIGN GROUP MANPOWER BREAK DOWN		Principal In- Charge Architect	Design/Const Manager	Job Captain	Draftsman	TOTAL HOURS	COAR TOTAL LABOR FEE	Ortiz - Structural Engineering	BLIN - Electrical Engineering	McPeters & McPeters - Mechanical Engineering	KTUA - Landscape Architect	Delane - Civil Engineering	Survey - Delane - Civil Engineering	DGP - LEED Consulting	Gerson- genfrumst	TOTAL FEE
billing rate		\$260.00	\$220.00	\$145.00	\$120.00											
Task Description																
1	Program Management	4	10			14	\$ 3,240	\$ 850	\$ -	\$ -	\$ 620	\$ 750		\$ -	\$ 510	\$ 5,970
2	Data Gathering, Site Visits, and Preliminary Investigations	24	24	60	60	168	\$ 27,420	\$ 1,700	\$ 4,465	\$ 11,530	\$ 2,480	\$ 1,060	\$ 12,500	\$ -	\$ 35,990	\$ 97,145
3	Permitting	4	12	12		28	\$ 5,420	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -	\$ 5,420
4	Schematic Design	24	100	120	200	444	\$ 69,640	\$ 18,900	\$ 22,800	\$ 22,780	\$ 9,645	\$ 16,590		\$ -	\$ -	\$ 160,355
5	Design Development	24	140	300	400	864	\$ 128,540	\$ 20,600	\$ 22,800	\$ 32,780	\$ 10,715	\$ 16,590		\$ -	\$ -	\$ 232,025
6	50% & Final PS&E	40	260	400	600	1,300	\$ 197,600	\$ 48,200	\$ 22,800	\$ 32,780	\$ 21,920	\$ 31,350		\$ -	\$ 510	\$ 355,160
7	Operation & Maintenance Plan	4	24			28	\$ 6,320	\$ -	\$ 1,800	\$ 1,115	\$ 2,480	\$ -		\$ -	\$ -	\$ 11,715
8	Bid & Award Phase Services	4	4	12	12	32	\$ 5,100	\$ 1,540	\$ 1,800	\$ 1,115	\$ 1,510	\$ 750		\$ -	\$ -	\$ 11,815
9	Construction Phase	24	200	290	83	597	\$ 122,700	\$ 22,680	\$ 22,878	\$ 5,172	\$ 11,454	\$ 10,944		\$ -	\$ 2,448	\$ 198,276
10	Post Construction Phase Services	8	24		24	56	\$ 12,288	\$ -	\$ 2,238	\$ 4,818	\$ 2,268	\$ 3,396		\$ -	\$ -	\$ 25,008
TOTAL		152	986	1,324	1,376	3,838	\$578,268	\$114,470	\$101,581	\$112,090	\$63,092	\$81,430	\$12,500	\$0	\$39,458	\$1,102,889
11	LEED Certification	8	80	40		128	\$ 25,480	\$ -	\$ -	\$ -	\$ 6,755	\$ -		\$ 34,600	\$ -	\$ 66,835
12	Reclaimed Water Design		8			8	\$ 1,760	\$ -	\$ -	\$ -	\$ 4,180	\$ -		\$ -	\$ -	\$ 5,940
TOTAL																\$1,175,664
CEQA - EIR (Scope to be refined and invoiced T&M)																\$177,580
Fire Protection Engineering **																\$30,000
Reimbursable Cost Allowance																\$80,000
TOTAL																\$1,463,244
ALLOWANCE: Potential Cost Savings for Station 2/3 similar designs - similar deduction taken at each station (to be negotiated at conclusion of Schematic Design)																-\$118,000

- Notes:
- 1 * CA and Post Construction Fees escalated for 6 year contract duration
- 2 ** Fire Protection in original proposal assumed performance specifications for fire alarm and sprinkler systems. Cost noted above assumes full system engineered as part of construction documents

GEOCON CONSULTANTS MANPOWER BREAK DOWN		Senior Engineer/Geologic I	Project Engineer/Geologic I	Staff Engineer/Geologic I	Staff Engineer/Geologic I (PW)	Staff Engineer/Geologic I (PW - OT)	Draftsman	Admin / Word Processing	Drilling Superintendent (Lump Sum)	Geophysical Superintendent	Drum Disposal Superintendent (Lump Sum)	Laboratory Testing (Lump Sum)	Drilling Permit	Soils Inspector with Equipment	TOTAL HOURS	TOTAL LABOR FEE	REIMBURSABLE EXPENSES	TOTAL FEE
	billing rate	\$170.00	\$150.00	\$120.00	\$170.00	\$255.00	\$90.00	\$90.00	\$6,270.00	\$6,595.00	\$1,330.00	\$2,730.00	\$615.00	\$160.00				
	Task Description																	
1	Program Management	3													3	\$ 510		\$ 510
2	Data Gathering, Site Visits, and Preliminary Investigations	14	38	39	18	4	10	9	1	1	1	1	1		137	\$ 35,990	\$ 3,095	\$ 39,085
3	Permitting														0	\$ -		\$ -
4	Schematic Design														0	\$ -		\$ -
5	Design Development														0	\$ -		\$ -
6	50% & Final PS&E	3													3	\$ 510		\$ 510
7	Operation & Maintenance Plan														0	\$ -		\$ -
8	Bid & Award Phase Services														0	\$ -		\$ -
9	Construction Phase	12													12	\$ 2,448		\$ 2,448
10	Post Construction Phase Services														0	\$ -		\$ -
11	LEED Certification														0	\$ -		\$ -
12	Reclaimed Water Design														0	\$ -		\$ -
TOTAL		32							1				1	0	155	39458	3095	42553

NOTES:

Fees for all required Geotechnical work are included, including testing for soils, hazardous materials, liquefaction, and Phase I and II reports as required by the City of Oxnard and County of Ventura

ORIE2 ENGINEERING MANPOWER BREAK DOWN		Principal In- Charge	Sr. Engineer	Engineer 1	Engineer II	TOTAL HOURS	TOTAL LABOR FEE	REIMBURSABLE EXPENSES	TOTAL FEE
	billing rate	\$240.00	\$185.00	\$145.00	\$115.00				
	Task Description								
1	Program Management	2	2			4	\$ 850		\$ 850
2	Data Gathering, Site Visits, and Preliminary Investigations	4	4			8	\$ 1,700		\$ 1,700
3	Permitting					0	\$ -		\$ -
4	Schematic Design	20	20	40	40	120	\$ 18,900		\$ 18,900
5	Design Development	24	24	40	40	128	\$ 20,600		\$ 20,600
6	50% & Final PS&E	40	40	120	120	320	\$ 48,200		\$ 48,200
7	Operation & Maintenance Plan					0	\$ -		\$ -
8	Bid & Award Phase Services	2	2		6	10	\$ 1,540		\$ 1,540
9	Construction Phase	20	20	40	40	120	\$ 22,680		\$ 22,680
10	Post Construction Phase Services					0	\$ -		\$ -
11	LEED Certification					0	\$ -		\$ -
12	Reclaimed Water Design					0	\$ -		\$ -
TOTAL		112	112	240	246	710	114470	0	114470

ELEN CONSULTING MANPOWER BREAK DOWN		Principal In- Charge	Project Engineer	Drafter	Admin	TOTAL HOURS	TOTAL LABOR FEE	REIMBURSABLE EXPENSES	TOTAL FEE
	billing rate	\$220.00	\$140.00	\$90.00	\$65.00				
	Task Description								
1	Program Management					0	\$ -		\$ -
2	Data Gathering, Site Visits, and Preliminary Investigations	20			1	21	\$ 4,465		\$ 4,465
3	Permitting					0	\$ -		\$ -
4	Schematic Design	20	80	80		180	\$ 22,800		\$ 22,800
5	Design Development	20	80	80		180	\$ 22,800		\$ 22,800
6	50% & Final PS&E	20	80	80		180	\$ 22,800		\$ 22,800
7	Operation & Maintenance Plan	5	5			10	\$ 1,800		\$ 1,800
8	Bid & Award Phase Services	5	5			10	\$ 1,800		\$ 1,800
9	Construction Phase	40	60	20	1	121	\$ 22,878		\$ 22,878
10	Post Construction Phase Services			20	1	21	\$ 2,238		\$ 2,238
11	LEED Certification					0	\$ -		\$ -
12	Reclaimed Water Design					0	\$ -		\$ -
TOTAL		130	310	280	3	723	101581	0	101581

MCPARLANE & ASSOCIATES MANPOWER BREAK DOWN		Principal In- Charge	Project Engineer	Drafter	Admin	TOTAL HOURS	TOTAL LABOR FEE	REIMBURSABLE EXPENSES	TOTAL FEE
	billing rate	\$225.00	\$150.00	\$85.00	\$70.00				
	Task Description								
1	Program Management					0	\$ -		\$ -
2	Data Gathering, Site Visits, and Preliminary Investigations	30	30		4	64	\$ 11,530		\$ 11,530
3	Permitting					0	\$ -		\$ -
4	Schematic Design	60	60		4	124	\$ 22,780		\$ 22,780
5	Design Development	40	100	100	4	244	\$ 32,780		\$ 32,780
6	50% & Final PS&E	40	100	100	4	244	\$ 32,780		\$ 32,780
7	Operation & Maintenance Plan	1	5		2	8	\$ 1,115		\$ 1,115
8	Bid & Award Phase Services	1	5		2	8	\$ 1,115		\$ 1,115
9	Construction Phase	3	20	5	3	31	\$ 5,172		\$ 5,172
10	Post Construction Phase Services	2	20	5	2	29	\$ 4,818		\$ 4,818
11	LEED Certification					0	\$ -		\$ -
12	Reclaimed Water Design					0	\$ -		\$ -
TOTAL		177	340	210	25	752	112090	0	112090

KTUA PLANNING & LANDSCAPE ARCHITECTURE MANPOWER BREAK DOWN		Principal Landscape Architect	Senior Landscape Architect	Irrigation Design Manager	Associate Landscape Architect	Landscape Designer	TOTAL HOURS	TOTAL LABOR FEE	REIMBURSABLE EXPENSES	TOTAL FEE
	billing rate	\$185.00	\$175.00	\$175.00	\$135.00	\$115.00				
	Task Description									
1	Program Management		2		2		4	\$ 620		\$ 620
2	Data Gathering, Site Visits, and Preliminary Investigations		1	7	8		16	\$ 2,480		\$ 2,480
3	Permitting						0	\$ -		\$ -
4	Schematic Design	1	14	4	28	22	69	\$ 9,645		\$ 9,645
5	Design Development		10	12	27	28	77	\$ 10,715		\$ 10,715
6	50% & Final PS&E	4	10	24	60	62	160	\$ 21,920		\$ 21,920
7	Operation & Maintenance Plan			8	8		16	\$ 2,480		\$ 2,480
8	Bid & Award Phase Services		2	2	6		10	\$ 1,510		\$ 1,510
9	Construction Phase		2	24	37		63	\$ 11,454		\$ 11,454
10	Post Construction Phase Services			4	2	8	14	\$ 2,268		\$ 2,268
11	LEED		6	15	16	8	45	\$ 6,755		\$ 6,755
12	RECLAIMED WATER			16		12	28	\$ 4,180		\$ 4,180
TOTAL		5	47	116		140	502	74027	0	74027

DELANE ENGINEERING MANPOWER BREAK DOWN		Principal In- Charge	Project Manager	Project Engineer	Designer	TOTAL HOURS	TOTAL LABOR FEE	REIMBURSABLE EXPENSES	TOTAL FEE
	billing rate	\$195.00	\$180.00	\$155.00	\$120.00				
	Task Description								
1	Program Management	2	2			4	\$ 750		\$ 750
2	Data Gathering, Site Visits, and Preliminary Investigations	16	24	24	20	84	\$ 13,560		\$ 13,560
3	Permitting	0	0	0	0	0	\$ -		\$ -
4	Schematic Design	18	36	24	24	102	\$ 16,590		\$ 16,590
5	Design Development	18	36	24	24	102	\$ 16,590		\$ 16,590
6	50% & Final PS&E	30	50	60	60	200	\$ 31,350		\$ 31,350
7	Operation & Maintenance Plan	0	0	0	0	0	\$ -		\$ -
8	Bid & Award Phase Services	2	2			4	\$ 750		\$ 750
9	Construction Phase	8	16	24	8	56	\$ 10,944		\$ 10,944
10	Post Construction Phase Services	2	4	8	4	18	\$ 3,396		\$ 3,396
11	LEED Certification					0	\$ -		\$ -
12	Reclaimed Water Design					0	\$ -		\$ -
TOTAL		96	170	164	140	570	93930	0	93930

DGP MANPOWER BREAK DOWN		Principal In- Charge	Project Manager	Project Engineer	Designer	TOTAL HOURS	TOTAL LABOR FEE	REIMBURSABLE EXPENSES	TOTAL FEE
	billing rate	\$195.00	\$180.00	\$155.00	\$120.00				
	Task Description								
1	Program Management					0	\$ -		\$ -
2	Data Gathering, Site Visits, and Preliminary Investigations					0	\$ -		\$ -
3	Permitting					0	\$ -		\$ -
4	Schematic Design					0	\$ -		\$ -
5	Design Development					0	\$ -		\$ -
6	50% & Final PS&E					0	\$ -		\$ -
7	Operation & Maintenance Plan					0	\$ -		\$ -
8	Bid & Award Phase Services					0	\$ -		\$ -
9	Construction Phase					0	\$ -		\$ -
10	Post Construction Phase Services					0	\$ -		\$ -
11	LEED Certification	40	80	80		200	\$ 34,600		\$ 34,600
12	Reclaimed Water Design					0	\$ -		\$ -
TOTAL		40	80	80	0	200	34600	0	34600

IMPACT SCIENCES MANPOWER BREAK DOWN												TOTAL MANPOWER		TOTAL MANPOWER		TOTAL MANPOWER	
Task Description												TOTAL MANPOWER		TOTAL MANPOWER		TOTAL MANPOWER	
CE SCOPE												0		0		0	
Notice of Description - No Report	8	8	4								4	24	\$ 5,000		\$ 5,000		
Kickoff and Project Management	2	2	4		4						2	14	\$ 2,400		\$ 2,400		
Technical Studies												0	\$ -		\$ -		
Air Quality	1		10			10	6					40	\$ 8,110		\$ 8,110		
Noise	1		10				20	2				31	\$ 5,940		\$ 5,940		
Water Quality (Class 12 Only)	1		1			5						7	\$ 1,300		\$ 1,300		
Proposed City	2	4	2	10		20	10	3				58	\$ 9,800		\$ 9,800		
Meetings / Hearings / Staff Report / Parade	4	6	4									10	\$ 2,700		\$ 2,700		
												0	\$ -		\$ -		
												0	\$ -		\$ -		
TOTAL												100	\$0.00	0	\$0.00		

MND SCOPE												0		0		0	
Kickoff and Project Management	4	4	8		8						2	26	\$ 4,800		\$ 4,800		
Technical Studies												0	\$ -		\$ -		
Air Quality	1		10			10	6					71	\$ 11,000		\$ 11,000		
Noise	1		10				24	2				47	\$ 7,900		\$ 7,900		
Biological Resources	1	10	8	4		40		2				71	\$ 12,000		\$ 12,000		
Archaeological Resources	1		14	8	8	20		2				53	\$ 9,800		\$ 9,800		
Initial Study/Negative Declaration												0	\$ -		\$ -		
Project Description						10						10	\$ 1,900		\$ 1,900		
Admin Draft MND	4			24		40						68	\$ 11,000		\$ 11,000		
Public MND				10		30						40	\$ 7,400		\$ 7,400		
Final MND	2			10		24						43	\$ 7,400		\$ 7,400		
Meetings / Hearings / Staff Report / Parade	8	6	4									20	\$ 4,700		\$ 4,700		
												0	\$ -		\$ -		
TOTAL												400	\$0.00	0	\$0.00		

ER SCOPE												0		0		0	
Kickoff and Project Management	8	4	4	80		8					4	88	\$ 16,800		\$ 16,800		
Technical Studies												0	\$ -		\$ -		
Air Quality	1		10			10	6					71	\$ 11,000		\$ 11,000		
Noise	1		10				24	2				47	\$ 7,900		\$ 7,900		
Biological Resources	1	10	8	4		40		2				71	\$ 12,000		\$ 12,000		
Archaeological Resources	1		14	8	8	20		2				53	\$ 9,800		\$ 9,800		
Notice of Preparation/Scoping Meeting				10		10		6				26	\$ 5,000		\$ 5,000		
Admin Draft ER	2											2	\$ 950		\$ 950		
Project Description	2			24								26	\$ 5,000		\$ 5,000		
Aesthetics	2											2	\$ 980		\$ 980		
Air Quality & Greenhouse Gas Emissions	2	4	8		24							38	\$ 6,470		\$ 6,470		
Biological Resources	2		8		16							26	\$ 4,470		\$ 4,470		
Cultural Resources	2		8		16							26	\$ 4,470		\$ 4,470		
Energy	2		8		24							34	\$ 5,070		\$ 5,070		
Geology and Soils	2		8		16							26	\$ 4,470		\$ 4,470		
Health & Hazardous Materials	2		8		24							34	\$ 5,070		\$ 5,070		
Hydrology and Water Quality	2		8		30							40	\$ 6,270		\$ 6,270		
Land Use and Planning	2		8		30							40	\$ 6,270		\$ 6,270		
Noise	2	4	8		16							30	\$ 5,270		\$ 5,270		
Public Services & Recreation	2		8		30							40	\$ 6,270		\$ 6,270		
Transportation	2		8		30							40	\$ 6,270		\$ 6,270		
Prepare and Circulate ER				20		20		20				60	\$ 9,200		\$ 9,200		
Responses to Comments/Final ER	28	24	24	8	24							104	\$ 21,200		\$ 21,200		
Findings & Statement of Overriding Considerations	10	10		10	8							38	\$ 6,100		\$ 6,100		
Meetings / Hearings / Staff Report / Parade	10		10									20	\$ 5,000		\$ 5,000		
												0	\$ -		\$ -		
TOTAL												684	\$17,000	0	\$17,000		

IMPACT SCIENCES MANPOWER BREAK DOWN												TOTAL MANPOWER		TOTAL MANPOWER		TOTAL MANPOWER	
Task Description												TOTAL MANPOWER		TOTAL MANPOWER		TOTAL MANPOWER	
CE SCOPE												0		0		0	
Notice of Disposition - No Report												4		4		4	
Kickoff and Project Management												2		2		2	
Technical Studies												0		0		0	
Air Quality												40		40		40	
Noise												31		31		31	
Water Quality (Class 12 Only)												7		7		7	
Proposed City												58		58		58	
Meetings / Hearings / Staff Report / Permit												10		10		10	
TOTAL												100		100		100	

MND SCOPE												0		0		0	
Kickoff and Project Management												2		2		2	
Technical Studies												0		0		0	
Air Quality												71		71		71	
Noise												47		47		47	
Biological Resources												71		71		71	
Archaeological Resources												53		53		53	
Initial Study/Negative Declaration												0		0		0	
Project Description												10		10		10	
Admin Draft MND												68		68		68	
Public MND												46		46		46	
Final MND												43		43		43	
Meetings / Hearings / Staff Report / Permit												20		20		20	
TOTAL												430		430		430	

ER SCOPE												0		0		0	
Kickoff and Project Management												88		88		88	
Technical Studies												0		0		0	
Air Quality												71		71		71	
Noise												47		47		47	
Biological Resources												71		71		71	
Archaeological Resources												53		53		53	
Notice of Preparation/Scoping Meeting												38		38		38	
Admin Draft ER												2		2		2	
Project Description												25		25		25	
Aesthetics												3		3		3	
Air Quality & Greenhouse Gas Emissions												38		38		38	
Biological Resources												26		26		26	
Cultural Resources												26		26		26	
Energy												34		34		34	
Geology and Soils												38		38		38	
Hazard & Hazardous Materials												34		34		34	
Hydrology and Water Quality												40		40		40	
Land Use and Planning												40		40		40	
Noise												30		30		30	
Public Services & Recreation												40		40		40	
Transportation												40		40		40	
Prepare and Circulate ER												60		60		60	
Responses to Comments/Final ER												104		104		104	
Findings & Statement of Overriding Considerations												38		38		38	
Meetings / Hearings / Staff Report / Permit												20		20		20	
TOTAL												684		684		684	

COAR DESIGN GROUP MANPOWER BREAK DOWN		Principal In- Charge Architect	Design Const Manager	Job Captain	Drafter	TOTAL HOURS	COAR TOTAL LABOR FEE	Dir2 - Structural Engineering	ELIEN - Electrical Engineering	McParlane & Associates - Mechanical Engineering	RTUA - Landscape Architect	Delano - Civil Engineering	Survey - Delano - Civil Engineering	DGP - LEED Consulting	Geoson - GeoHazmat	TOTAL FEE
	billing rate	\$260.00	\$220.00	\$145.00	\$120.00											
	Task Description															
1	Program Management	4	10			14	\$ 3,240	\$ 1,700	\$ -	\$ -	\$ 1,860	\$ 3,000		\$ -	\$ 510	\$ 10,310
2	Data Gathering, Site Visits, and Preliminary Investigations	40	40	60	60	200	\$ 35,100	\$ 3,400	\$ 6,665	\$ 17,295	\$ 795	\$ 8,000	\$ 18,000	\$ -	\$ 29,355	\$ 118,610
3	Permitting	4	12	12		28	\$ 5,420	\$ 6,160	\$ -	\$ -	\$ -	\$ 2,250		\$ -	\$ -	\$ 13,830
4	Schematic Design	40	180	200	240	660	\$ 107,800	\$ 22,680	\$ 29,600	\$ 34,170	\$ 14,155	\$ 24,800		\$ -	\$ -	\$ 233,205
5	Design Development	40	240	600	600	1,480	\$ 222,200	\$ 22,680	\$ 29,600	\$ 49,170	\$ 15,280	\$ 48,800		\$ -	\$ -	\$ 387,730
6	50% & Final PS&E	40	240	400	600	1,280	\$ 193,200	\$ 67,100	\$ 29,600	\$ 49,170	\$ 33,500	\$ 99,700		\$ -	\$ 510	\$ 472,780
7	Operation & Maintenance Plan	4	24			28	\$ 6,320	\$ -	\$ 1,800	\$ 1,710	\$ 2,480	\$ -		\$ -	\$ -	\$ 12,310
8	Bid & Award Phase Services	8	8	24	12	52	\$ 8,760	\$ 2,390	\$ 1,800	\$ 1,710	\$ 1,820	\$ 1,110		\$ -	\$ -	\$ 17,590
9	Construction Phase *	24	300	400	80	804	\$ 167,808	\$ 27,216	\$ 22,878	\$ 7,632	\$ 15,384	\$ 23,640		\$ -	\$ 2,448	\$ 267,006
10	Post Construction Phase Services *	8	24		24	56	\$ 12,288	\$ -	\$ 2,238	\$ 7,176	\$ 2,688	\$ 7,368		\$ -	\$ -	\$ 31,758
TOTAL		472	1,298	1,841	1,736	4,602	\$762,136	\$153,326	\$124,181	\$168,033	\$87,962	\$218,668	\$18,000	\$0	\$32,823	\$1,565,129
11	LEED Certification	8	80	40		128	\$ 25,480	\$ -	\$ -	\$ -	\$ 6,755	\$ -		\$ 34,600	\$ -	\$ 66,835
12	Reclaimed Water Design		8			8	\$ 1,760	\$ -	\$ -	\$ -	\$ 4,180	\$ -		\$ -	\$ -	\$ 5,940
TOTAL																\$1,637,904
	CEQA - EIR (Scope to be refined and invoiced T&M). Not to Exceed amount included															\$177,580
	Fire Protection Engineering **															\$50,000
	Traffic Engineering															\$50,000
	Reimbursable Cost Allowance															\$80,000
TOTAL LUMP SUM CONTRACT																\$1,995,484

- Notes:
- * CA and Post Construction Fees escalated for 6 year contract duration
 - ** Fire Protection in original proposal assumed performance specifications for fire alarm and sprinkler systems. Cost noted above assumes full system engineered as part of construction documents

ORIE2 ENGINEERING MANPOWER BREAK DOWN		Principal In- Charge	Sr. Engineer	Engineer 1	Engineer II	TOTAL HOURS	TOTAL LABOR FEE	REIMBURSABLE EXPENSES	TOTAL FEE
	billing rate	\$240.00	\$185.00	\$145.00	\$115.00				
	Task Description								
1	Program Management	4	4			8	\$ 1,700		\$ 1,700
2	Data Gathering, Site Visits, and Preliminary Investigations	8	8			16	\$ 3,400		\$ 3,400
3	Permitting	8	8		24	40	\$ 6,160		\$ 6,160
4	Schematic Design	24	24	48	48	144	\$ 22,680		\$ 22,680
5	Design Development	24	24	48	48	144	\$ 22,680		\$ 22,680
6	50% & Final PS&E	60	60	160	160	440	\$ 67,100		\$ 67,100
7	Operation & Maintenance Plan					0	\$ -		\$ -
8	Bid & Award Phase Services	4	4		6	14	\$ 2,390		\$ 2,390
9	Construction Phase *	24	24	48	48	144	\$ 27,216		\$ 27,216
10	Post Construction Phase Services *					0	\$ -		\$ -
11	LEED Certification					0	\$ -		\$ -
12	Reclaimed Water Design					0	\$ -		\$ -
TOTAL		156	156	304	334	950	153326	0	153326

ELEN CONSULTING MANPOWER BREAK DOWN		Principal In- Charge	Project Engineer	Drafter	Admin	TOTAL HOURS	TOTAL LABOR FEE	REIMBURSABLE EXPENSES	TOTAL FEE
	billing rate	\$220.00	\$140.00	\$90.00	\$65.00				
	Task Description								
1	Program Management					0	\$ -		\$ -
2	Data Gathering, Site Visits, and Preliminary Investigations	30			1	31	\$ 6,665		\$ 6,665
3	Permitting					0	\$ -		\$ -
4	Schematic Design	30	100	100		230	\$ 29,600		\$ 29,600
5	Design Development	30	100	100		230	\$ 29,600		\$ 29,600
6	50% & Final PS&E	30	100	100		230	\$ 29,600		\$ 29,600
7	Operation & Maintenance Plan	5	5			10	\$ 1,800		\$ 1,800
8	Bid & Award Phase Services	5	5			10	\$ 1,800		\$ 1,800
9	Construction Phase *	40	60	20	1	121	\$ 22,878		\$ 22,878
10	Post Construction Phase Services *			20	1	21	\$ 2,238		\$ 2,238
11	LEED Certification					0	\$ -		\$ -
12	Reclaimed Water Design					0	\$ -		\$ -
TOTAL		170	370	340	3	883	124181	0	124181

MCPARLANE & ASSOCIATES MANPOWER BREAK DOWN		Principal In- Charge	Project Engineer	Drafter	Admin	TOTAL HOURS	TOTAL LABOR FEE	REIMBURSABLE EXPENSES	TOTAL FEE
	billing rate	\$225.00	\$150.00	\$85.00	\$70.00				
	Task Description								
1	Program Management					0	\$ -		\$ -
2	Data Gathering, Site Visits, and Preliminary Investigations	45	45		6	96	\$ 17,295		\$ 17,295
3	Permitting					0	\$ -		\$ -
4	Schematic Design	90	90		6	186	\$ 34,170		\$ 34,170
5	Design Development	60	150	150	6	366	\$ 49,170		\$ 49,170
6	50% & Final PS&E	60	150	150	6	366	\$ 49,170		\$ 49,170
7	Operation & Maintenance Plan	2	7		3	12	\$ 1,710		\$ 1,710
8	Bid & Award Phase Services	2	7		3	12	\$ 1,710		\$ 1,710
9	Construction Phase *	4	30	8	4	46	\$ 7,632		\$ 7,632
10	Post Construction Phase Services *	3	30	7	3	43	\$ 7,176		\$ 7,176
11	LEED Certification					0	\$ -		\$ -
12	Reclaimed Water Design					0	\$ -		\$ -
TOTAL		266	509	315	37	1127	168033	0	168033

KTUA PLANNING & LANDSCAPE ARCHITECTURE MANPOWER BREAK DOWN		Principal Landscape Architect	Senior Landscape Architect	Irrigation Design Manager	Associate Landscape Architect	Landscape Designer	TOTAL HOURS	TOTAL LABOR FEE	REIMBURSABLE EXPENSES	TOTAL FEE
	billing rate	\$185.00	\$175.00	\$175.00	\$135.00	\$115.00				
	Task Description									
1	Program Management		6		6		12	\$ 1,860		\$ 1,860
2	Data Gathering, Site Visits, and Preliminary Investigations		2	1	2		5	\$ 795		\$ 795
3	Permitting						0	\$ -		\$ -
4	Schematic Design	1	18	6	40	38	103	\$ 14,155		\$ 14,155
5	Design Development		14	14	36	48	112	\$ 15,280		\$ 15,280
6	50% & Final PS&E	4	24	34	84	98	244	\$ 33,500		\$ 33,500
7	Operation & Maintenance Plan			8	8		16	\$ 2,480		\$ 2,480
8	Bid & Award Phase Services		2	3	7		12	\$ 1,820		\$ 1,820
9	Construction Phase *		7	30	47		84	\$ 15,384		\$ 15,384
10	Post Construction Phase Services *		1	5	2	8	16	\$ 2,688		\$ 2,688
11	LEED		6	15	16	8	45	\$ 6,755		\$ 6,755
12	RECLAIMED WATER			16		12	28	\$ 4,180		\$ 4,180
TOTAL		5	80	132	212	212	677	98897	0	98897

DELANE ENGINEERING MANPOWER BREAK DOWN		Principal In- Charge	Project Manager	Project Engineer	Designer	TOTAL HOURS	TOTAL LABOR FEE	REIMBURSABLE EXPENSES	TOTAL FEE
	billing rate	\$195.00	\$180.00	\$155.00	\$120.00				
	Task Description								
1	Program Management	8	8			16	\$ 3,000		\$ 3,000
2	Data Gathering, Site Visits, and Preliminary Investigations	40	40	40	40	160	\$ 26,000		\$ 26,000
3	Permitting	6	6	0	0	12	\$ 2,250		\$ 2,250
4	Schematic Design	40	40	40	30	150	\$ 24,800		\$ 24,800
5	Design Development	60	80	100	60	300	\$ 48,800		\$ 48,800
6	50% & Final PS&E	100	180	200	140	620	\$ 99,700		\$ 99,700
7	Operation & Maintenance Plan	0	0	0	0	0	\$ -		\$ -
8	Bid & Award Phase Services	2	4			6	\$ 1,110		\$ 1,110
9	Construction Phase *	20	40	40	20	120	\$ 23,640		\$ 23,640
10	Post Construction Phase Services *	4	8	16	12	40	\$ 7,368		\$ 7,368
11	LEED Certification					0	\$ -		\$ -
12	Reclaimed Water Design					0	\$ -		\$ -
TOTAL		280	406	436	302	1424	236668	0	236668

DGP MANPOWER BREAK DOWN		Principal In- Charge	Project Manager	Project Engineer	Designer	TOTAL HOURS	TOTAL LABOR FEE	REIMBURSABLE EXPENSES	TOTAL FEE
	billing rate	\$195.00	\$180.00	\$155.00	\$120.00				
	Task Description								
1	Program Management					0	\$ -		\$ -
2	Data Gathering, Site Visits, and Preliminary Investigations					0	\$ -		\$ -
3	Permitting					0	\$ -		\$ -
4	Schematic Design					0	\$ -		\$ -
5	Design Development					0	\$ -		\$ -
6	50% & Final PS&E					0	\$ -		\$ -
7	Operation & Maintenance Plan					0	\$ -		\$ -
8	Bid & Award Phase Services					0	\$ -		\$ -
9	Construction Phase *					0	\$ -		\$ -
10	Post Construction Phase Services *					0	\$ -		\$ -
11	LEED Certification	40	80	80		200	\$ 34,600		\$ 34,600
12	Reclaimed Water Design					0	\$ -		\$ -
TOTAL		40	80	80	0	200	34600	0	34600

IMPACT SCIENCES MANPOWER BREAK DOWN		Meeting Planning	Technical Studies	Biological Resources	Archaeological Resources	IR / EA	Public Review	Other	Administrative Support	Quality Control	Other	Other	Other	Other	Other	TOTAL HOURS	TOTAL LABOR FEE	REBURSED FEE	TOTAL FEE
Task Description		000000	000000	000000	000000	000000	000000	000000	000000	000000	000000	000000	000000	000000	000000				
MND SCOPE																0	\$ -		\$ -
000000	Kickoff and Project Management	4	4			8		8							2	26	\$ 4,820		\$ 4,820
000000	Technical Studies															0	\$ -		\$ -
	Air Quality	1		16					50	4						71	\$ 11,955		\$ 11,955
	Noise	1		10					34	2						47	\$ 7,905		\$ 7,905
	Biological Resources	1	16	8	4			40		2						71	\$ 12,565		\$ 12,565
	Archaeological Resources	1		14	8	8	30		2							53	\$ 9,965		\$ 9,965
000000	Initial Study/Mitigated Negative Declaration															0	\$ -		\$ -
	Project Description							10								10	\$ 1,500		\$ 1,500
	Admin Draft IS/MND	4				24		40								68	\$ 11,620		\$ 11,620
	Publish IS/MND					16		30								46	\$ 7,460		\$ 7,460
	Final IS/MND	3				16		24								43	\$ 7,445		\$ 7,445
000000	Meetings / Hearings / Staff Report / Permits	8	8		4											20	\$ 4,700		\$ 4,700
																0	\$ -		\$ -
TOTAL																455	79955	0	79955

ER SCOPE																0	\$ -		\$ -
000000	Kickoff and Project Management	8	4	4	60			8							4	88	\$ 16,820		\$ 16,820
000000	Technical Studies															0	\$ -		\$ -
	Air Quality	1		16					50	4						71	\$ 11,955		\$ 11,955
	Noise	1		10					34	2						47	\$ 7,905		\$ 7,905
	Biological Resources	1	16	8	4			40		2						71	\$ 12,565		\$ 12,565
	Archaeological Resources	1		14	8	8	30		2							53	\$ 9,965		\$ 9,965
000000	Notice of Preparation/Scoping Meeting				16		12		4							32	\$ 5,260		\$ 5,260
	Admin Draft ER	2														2	\$ 590		\$ 590
	Project Description	2				24										26	\$ 5,030		\$ 5,030
	Aesthetics	2														2	\$ 590		\$ 590
	Air Quality & Greenhouse Gas Emissions	2	4		8		24									38	\$ 6,470		\$ 6,470
	Biological Resources	2			8		16									26	\$ 4,470		\$ 4,470
	Cultural Resources	2			8		16									26	\$ 4,470		\$ 4,470
	Energy	2			8		24									34	\$ 5,870		\$ 5,870
	Geology and Soils	2			8		16									26	\$ 4,470		\$ 4,470
	Hazards & Hazardous Materials	2			8		24									34	\$ 5,870		\$ 5,870
	Hydrology and Water Quality	2			8		30									40	\$ 6,570		\$ 6,570
	Land Use and Planning	2			8		30									40	\$ 6,570		\$ 6,570
	Noise	2	4		8		16									30	\$ 5,270		\$ 5,270
	Public Services & Recreation	2			8		30									40	\$ 6,570		\$ 6,570
	Transportation	2			8		30									40	\$ 6,570		\$ 6,570
	Prepare and Circulate ER				20		20		20							60	\$ 9,200		\$ 9,200
	Responses to Comments/Final ER	24	24		24	8	24									104	\$ 21,240		\$ 21,240
	Findings & Statement of Overriding Considerations	10	10		10	8										38	\$ 8,120		\$ 8,120
000000	Meetings / Hearings / Staff Report / Permits	10		10												20	\$ 5,550		\$ 5,550
																0	\$ -		\$ -
TOTAL																988	177580	0	177580

GEOCON CONSULTANTS MANPOWER BREAK DOWN		Senior Engineer/Geologi st	Project Engineer/Geologi st	Staff Engineer/Geologi st	Staff Engineer/Geologi st (PM)	Staff Engineer/Geologi st (PM, OT)	Draftsman	Admin / Word Processing	Drilling Supervisor (Lump Sum)	Geophysical Supervisor (Lump Sum)	Laboratory Testing (Lump Sum)	Drilling Permit	*Soils Inspector with Equipment	TOTAL HOURS	TOTAL LABOR FEE	REIMBURSABLE EXPENSES	TOTAL FEE
	billing rate	\$170.00	\$150.00	\$120.00	\$170.00	\$255.00	\$90.00	\$90.00	\$6,060.00	\$6,595.00	\$2,730.00	\$515.00	\$160.00				
	Task Description																
1	Program Management	3												3	\$ 510		\$ 510
2	Data Gathering, Site Visits, and Preliminary Investigations	12	8	39	18	4	5	5	1	1	1	1		95	\$ 29,355		\$ 29,355
3	Permitting													0	\$ -		\$ -
4	Schematic Design													0	\$ -		\$ -
5	Design Development													0	\$ -		\$ -
6	50% & Final PS&E	3												3	\$ 510		\$ 510
7	Operation & Maintenance Plan													0	\$ -		\$ -
8	Bid & Award Phase Services													0	\$ -		\$ -
9	Construction Phase *	12												12	\$ 2,448		\$ 2,448
10	Post Construction Phase Services *													0	\$ -		\$ -
11	LEED Certification													0	\$ -		\$ -
12	Reclaimed Water Design													0	\$ -		\$ -
TOTAL		30	8	39	18	4	5	5	1	1	1	1	0	113	113	0	32823

NOTES:

Fees for all required Geotechnical work are included, including testing for soils, hazardous materials, liquefaction, and Phase I and II reports as required by the City of Oxnard and County of Ventura

EXHIBIT C

CONSULTANT/PROFESSIONAL SERVICES AGREEMENT (CITY of Oxnard and COAR Design Group)

INSURANCE REQUIREMENTS

Prior to contract approval, CONSULTANT/SERVICE PROVIDER/SELLER/BIDDER (hereafter referred to as "CONSULTANT") must procure, agree to maintain and supply evidence of insurance at the levels listed and in accordance with the other provisions listed in this document.

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. If you have not received your request or are having difficulty with electronic upload, contact insurance@oxnard.org

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

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

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

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

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

3/23

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

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

Endorsement Forms

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

INS-A.doc

ACORD CERTIFICATE OF INSURANCE			ISSUE DATE (MM/DD/YY)		
PRODUCER			THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.		
CODE	SUB-CODE	COMPANIES AFFORDING INSURANCE COVERAGE			
INSURED		COMPANY LETTER A SPECIFY COMPANY NAMES IN THIS SPACE			
		COMPANY LETTER B			
COVERAGES THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.					
CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY ☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS MADE ☒ OCCUR. ☒ OWNER'S & CONTRACTOR'S PROT.				GENERAL AGGREGATE \$1,000,000 PRODUCTS COMP/OP AGG \$1,000,000 PERSONAL & ADV. INJURY \$1,000,000 EACH OCCURRENCE \$1,000,000 FIRE DAMAGE (Any one fire) \$ MED. EXPENSE (Any one person)\$
A	AUTOMOBILE LIABILITY ☒ ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS GARAGE LIABILITY				COMBINED SINGLE \$1,000,000 LIMIT BODILY INJURY \$ (Per person) BODILY INJURY \$ (Per accident) PROPERTY DAMAGE \$
A	EXCESS LIABILITY UMBRELLA FORM OTHER THAN UMBRELLA FORM				EACH OCCURRENCE \$ AGGREGATE \$
A	WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY				STATUTORY LIMITS EACH ACCIDENT \$1,000,000 DISEASE-POLICY LIMIT \$1,000,000 DISEASE-EACH EMPLOYEE \$1,000,000
A	OTHER Errors and omissions insurance or malpractice insurance available for the insured's profession				Minimum coverage \$1,000,000 Each consultant/ \$500,000 & listed sub-consultant
DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS					
CERTIFICATE HOLDER CITY OF OXNARD % Evident ID, Inc. 8520 Allison Pointe Blvd. Ste 223 PMB 5210 Indianapolis, Indiana 46250-4299 US			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							
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							
TYPE OF INSURANCE GENERAL LIABILITY ☐ COMMERCIAL GENERAL LIABILITY ☐ COMPREHENSIVE GENERAL LIABILITY ☐ OWNERS & CONTRACTORS PROTECTIVE		☐ 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							
COVERAGES ☐ GENERAL ☐ PRODUCTS/COMPLETED OPERATIONS ☐ PERSONAL & ADVERTISING INJURY ☐ FIRE DAMAGE ☐ _____ ☐ _____		<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2" style="text-align: center; padding: 5px;">LIABILITY LIMITS IN THOUSANDS \$</th> </tr> <tr> <th style="text-align: center; padding: 5px;">EACH OCCURRENCE</th> <th style="text-align: center; padding: 5px;">AGGREGATE</th> </tr> </thead> <tbody> <tr> <td style="height: 100px;"></td> <td></td> </tr> </tbody> </table>		LIABILITY LIMITS IN THOUSANDS \$		EACH OCCURRENCE	AGGREGATE		
LIABILITY LIMITS IN THOUSANDS \$									
EACH OCCURRENCE	AGGREGATE								
OTHER PROVISIONS CLAIMS: Underwriter's representative for claims pursuant to this insurance. Name: _____ Address: _____ Telephone: (____) _____		CLAIMS: Underwriter's representative for claims pursuant to this insurance. Name: _____ Address: _____ Telephone: (____) _____							
In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:									
1. INSURED. The City, its officers, agents, employees and volunteers are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured. 2. CONTRIBUTION NOT REQUIRED. As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it. 3. SEVERABILITY OF INTEREST. This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included. 4. CANCELLATION NOTICE. With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City. 5. PROVISIONS REGARDING THE INSURED'S DUTIES. Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers. 6. SCOPE OF COVERAGE. This policy, if primary, affords coverage at least as broad as: a. Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG0001; or b. If excess, affords coverage which is at least as broad as the primary insurance form CG0001. Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.									
ENDORSEMENT HOLDER									
CITY OF OXNARD % Evident ID, Inc. 8520 Allison Pointe Blvd. Ste 223 PMB 5210 Indianapolis, Indiana 46250-4299 US		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 ☐ 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 % Evident ID, Inc. 8520 Allison Pointe Blvd. Ste 223 PMB 5210 Indianapolis, Indiana 462500-4299 US		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

CONSULTANT/PROFESSIONAL SERVICES AGREEMENT (CITY of Oxnard and COAR Design Group)

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 CONSULTANT/Professional services contracts and all unique trade services contracts governed by the Living Wage Policy.

A. CONSULTANT shall compensate any employee of CONSULTANT 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, CONSULTANT shall pay such employee no less than \$18.22 per hour for each hour that such employee provides services under this Agreement. In addition, while this Agreement is in effect, CONSULTANT shall provide to such employee no less than 96 hours of paid leave per calendar year.

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

D. In addition, if CONSULTANT fails to comply with the Living Wage Policy in any manner, CONSULTANT 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. CONSULTANT shall pay such fine and penalty within fifteen (15) calendar days after the City Manager or designee provides written notice to CONSULTANT of the amount owed.

**CITY OF OXNARD LIVING WAGE REQUIREMENTS
EFFECTIVE JULY 1, 2022**

CONSULTANT shall compensate any employee of CONSULTANT who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as Exhibit D. While this Agreement is in effect, CONSULTANT shall pay such employee no less than \$18.22 per hour for each hour that such employee provides services under this Agreement. This hourly rate shall be adjusted on July 1, 2023, 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, CONSULTANT shall provide to such employee no less than 96 hours of paid leave per calendar year.

- a. CONSULTANT 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 CONSULTANT fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to CONSULTANT, effective immediately.
- c. In addition, if CONSULTANT fails to comply with the Living Wage Policy in any manner, CONSULTANT 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. CONSULTANT shall pay such fine and penalty within fifteen (15) calendar days after the City Manager or designee provides written notice to CONSULTANT of the amount owed.

EXHIBIT E

CONSULTANT/PROFESSIONAL SERVICES AGREEMENT (CITY of Oxnard and COAR Design Group)

PREVAILING WAGE

1. CONSULTANT acknowledges that the Project defined in the Agreement between CONSULTANT 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. CONSULTANT shall perform the Project as a public work. CONSULTANT 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. CONSULTANT acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and CONSULTANT shall post such rates at each job site covered by this Agreement.
3. CONSULTANT is required to post job site notices, as prescribed by regulation. See Labor Code Section 1771.4(a)(2).
4. CONSULTANT 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. CONSULTANT 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 CONSULTANT or any subcontractor. The Labor Commissioner shall determine the amount of the penalty as described in Section 1775.
5. CONSULTANT shall comply with Labor Code Section 1776, which requires CONSULTANT 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. CONSULTANT 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, CONSULTANT shall provide CITY with a copy of the information submitted to any applicable apprenticeship program. Within 60 days after concluding the Project, CONSULTANT and each of its subcontractors shall submit to CITY a verified statement of the journeyman and apprentice hours performed under this Agreement.

7. CONSULTANT 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, CONSULTANT must immediately notify CITY.
8. CONSULTANT 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. CONSULTANT 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. CONSULTANT acknowledges that 8 hours labor constitutes a legal day's work. CONSULTANT shall comply with and be bound by Labor Code Section 1810.
10. CONSULTANT shall comply with and be bound by Labor Code Section 1813 concerning penalties for workers who work excess hours. CONSULTANT shall, as a penalty to CITY, forfeit \$25 for each worker employed in the performance of this Agreement by CONSULTANT 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 CONSULTANT'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. CONSULTANT 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. CONSULTANT 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. CONSULTANT 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, CONSULTANT shall diligently take corrective action to halt or rectify any failure.
13. To the maximum extent, CONSULTANT 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 CONSULTANT, 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 CONSULTANT under this Section shall survive Agreement termination.

Exhibit F

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):
COAR Design Group

Federal ID Number (or n/a):
46-4449528

By (Authorized Signature): 

Printed Name & Title of Person Signing:

Date Executed

Jeff Katz, President

March 9, 2023

Executed in the County of San Diego

in the State of CA

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

Professional Services Agreement 32300386 with COAR Design Group for the Fire Stations No. 2, 3 and 4 Professional Design Services

City Council
May 2, 2023

Reza Bagherzadeh
Senior Project Manager

That the City Council approve and authorize:

1. The execution of an Agreement with COAR Design Group, in the amount of \$5,414,207 for professional design services for new Fire Stations No. 2, 3, and 4 (Project Nos. C1702/172201 and C2255/22AR54); and
2. A project budget appropriation transfer in the amount of \$550,000 in the Capital Growth Fees Fund (355) from the Fire Station No. 4 Project (Project No. C1702/172201) to the Fire Stations No. 2, 3, and 5 Project (Project No. C2255/22AR54).

- One of the City Council's strategic plan elements is, "maintain fire protection services", which this project will help ensure
- Existing Fire Stations No. 2, 3 and 4 have all reached to the end of their useful life
- To continue providing essential services and to plan for future growth, Fire Stations 2, 3, and 4 need to be replaced

- Part of the scope of work includes the design of temporary on-site housing for Fire Stations No. 2 & 3. This is to ensure operations can continue during construction of the new facilities.
- New Fire Station No. 4 will be located on a separate 9-acre site on land currently owned by the City, which is located along the 288 Block of Ventura Road.
- It is anticipated that approximately two acres will be subdivided for the purpose of designing and constructing the new Fire Station No. 4.

- The notice inviting request for proposals (RFP) for architecture and engineering design services for the project was published on September 19 , 2022, and all proposals were due on October 26, 2022
- The specific work for this contract includes
 - Community Outreach
 - Architecture and Engineering Design Services
 - Secure all required permits from all governing agencies
 - Development of an Operations & Maintenance Manual
 - Bid & Award assistance
 - Construction Administration Coordination and
 - Post Construction & Commissioning

- City received a total of four proposals, which included
 - COAR Design Group,
 - HMC Architects, Studio,
 - The Taylor Group Architects,
 - 2G Architects, LLP,
- The top three highest scored firms were then interviewed on December 15 & 16, 2022 for final selection by the following staff:
 - Fire Chief
 - Public Works Director
 - City Engineer
 - Supervising Civil Engineer,
 - Senior Project Manager
- COAR Design Group was interviewed for the second time on January 4, 2023 in order for the City to make the final selection of the most qualified consultant.

- Pre-design phase will commence as soon as the contract is executed and the project kick-off meeting is commenced. There will be an outreach community workshop to gather input from the community
- Consultant will take approximately 2 to 3 years to complete the California Environmental Quality Acts, pre-design, Schematic Design, Design Development, Construction Documents plans, specifications, cost estimate, and secure all necessary permits for the construction the fire stations

- The total cost for this Agreement with COAR Design Group shall not exceed \$5,414,207
- Between the two CIP projects, there is sufficient funding of \$6,699,227 (American Rescue Plan Act and Capital Growth Fees) to cover the proposed design costs and associated staff time
- Staff recommends transferring \$550,000 of Capital Growth Fees from the Fire Station 4 project to the Fire Station 2,3, and 5 project to ensure each project has sufficient funds to cover their respective design costs



QUESTIONS



CITY COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. L.4

DATE: May 2, 2023

TO: City Council

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

SUBJECT: Updates to the Five Year Capital Improvement Program for Fiscal Years 2022-2027. (10 minutes)

RECOMMENDATION

That the City Council:

1. Approve and adopt updates to the 2022-2027 City of Oxnard Five Year Capital Improvement Program; and
2. Authorize project budget appropriations of \$2,000,000 in Fiscal Year 2022-23 from the Capital Growth Fees Fund for the Fire Station 4 Rebuild Project (C1702/172201).

(Public Works and Transportation Committee approved 2-0.)

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/EeVF3FMUviA>

BACKGROUND

The City Council approved and adopted the 2022-2027 City of Oxnard Five Year Capital Improvement Program on May 3, 2022. 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 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 American Rescue Plan Act (ARPA) funds that were appropriated to capital projects in this past year.

Since the adoption of the 2022-2027 CIP, staff has received updates to projects, which are outlined below.

At the City Council meeting on February 7, 2023, staff presented information about CIP projects and ARPA funding with regards to slowing the pace of CIP projects, among other activities, based upon several factors. Information related to the discussion on February 7th is also contained in this staff report.

DISCUSSION

The following are proposed updates to the 2022-2027 CIP:

Table 1. Updates

#	CIP Title	CIP Page Number	Proposed Changes
---	-----------	-----------------------	------------------

1	Fire Station 4 Rebuild	6	Modify Funding: Move \$2,000,000 from FY 23-24 Capital Growth Fees-Residential into FY 22-23
2	Wastewater OWTP: Electrical Improvements	106	Merge with OWTP Reliability Improvements Project on page 116
3	Wastewater OWTP: Motor Control Center (MCC) Construction	111	Merge with OWTP Reliability Improvements Project on page 116
4	Wastewater OWTP: New Maintenance Storage Building	112	Merge with OWTP Reliability Improvements Project on page 116
5	Wastewater OWTP: Reliability Improvements	116	Originally six separate projects, the OWTP Reliability Project Replace and repair equipment identified at facilities that are vital to reliable Wastewater Treatment Plant operations including structural repairs, headworks odor control, anaerobic digester, site piping, electrical building, standby generator and maintenance building. Change Project Funding due to merging of projects: \$64,960,800 approved by City Council on June 7, 2022
6	Wastewater OWTP: Site Security Improvements	117	Merge with OWTP Reliability Improvements Project on page 116
7	Wastewater OWTP: System SCADA Improvements	118	Merge with OWTP Reliability Improvements Project on page 116

The Fire Station 4 Rebuild project (Item 1 in Table 1 above) has been prioritized by the Fire Department as a result of new development in north Oxnard and is in need of design funds sooner than originally anticipated. The design contract is anticipated to be awarded this fiscal year. Therefore, staff recommends bringing forward \$2M of funding originally scheduled to be used in FY 23-24 into FY 22-23.

For Items 2 through 7 in Table 1 above (Oxnard Wastewater Treatment Plant (OWTP) projects), the proposed changes reflect the combination of several projects into one larger project. This larger project, the OWTP Reliability Improvement Project, was awarded to a contractor at the June 7, 2022, City Council meeting. The above changes are just administrative clean-up items to document the consolidation of projects.

Table 2. Additions

#	CIP Title	Page Number	Proposed Additions
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1	Wastewater OWTP: Secondary Clarifiers Rehabilitation	TBD	Project Description: Replacement of mechanical equipment in the secondary clarifiers at the OWTP. Following the design phase two of the eighteen tanks will be rehabbed each year on a rotating basis. Project Funding: \$100,000 in FY 23-24; \$400,000 in FY 24-25
2	Water Production: Well 20 Rehabilitation	TBD	Project Description: Metal shavings were found in a screen of Well 20 indicating an issue with the pump impellers. Phase 1 of this project will be exploratory assessment of the pump and casing. Phase 2 will include above ground pipework improvements and installation of a flow meter. Project Funding: \$150,000 in FY 23-24; \$600,000 in FY 24-25
3	Citywide Security Cameras	TBD	Project Description: Update and add security cameras across all city facilities/locations and will be managed via a holistic cloud solution and service provider. Project Funding: \$2,000,000 ARPA Funding; \$750,000 in FY 23-24; \$1,250,000 in FY 24-25
4	Durley Park Concession Building Repairs	TBD	Project Description: Roof, ventilation, exterior, interior, and electrical repairs resulting from fire damage to the building. Project Funding: \$322,636 Insurance claim

For the projects in Table 2 above, the Planning Commission is scheduled to review them for the required 65401 finding at their April 20, 2023, meeting date.

Projects completed since the City Council approved the two-year CIP on May 2, 2022:

1. Ormond Beach Neighborhood Street Resurfacing
2. Council Chambers Remodel
3. Traffic Signal Modifications
4. Perkins Road Parking Lot Improvements
5. Central Trunk Sewer Manhole Replacement - Phase I
6. Lift Station 28 Demolition
7. AWPf TOC Analyzers
8. Recycled Water Pipeline - Hueneme Phase 2
9. Arterial Street Resurfacing
 - a. East Doris Ave Reconstruction
 - b. Teal Club Road Street Improvements
 - c. Patterson Road Street Improvements
 - d. Second Street Improvements
 - e. Saviers Road Preventative Maintenance
 - f. Wooley Road Preventative Maintenance
10. Neighborhood Street Resurfacing
 - a. La Colonia Neighborhood Street Improvements - Phase II
 - b. Rice Avenue Commercial Neighborhood Street Improvements
11. Citywide Alley Resurfacing

- a. HERO Alley Reconstruction - Phase I
 - b. HERO Alley Reconstruction - Phase II
12. Park Improvements
- a. Thompson Park, Johnson Creek Park, and Sierra Linda Park Playground Improvement Projects
 - b. Garden City Acres Park Improvement Project
 - c. Southwinds Park Basketball Court Resurfacing
 - d. Beck Park Basketball Court Resurfacing

On March 29, 2022, as part of the Council's action on ARPA projects, the City Manager (or designee) is authorized to approve budget appropriations necessary to recognize revenue and appropriate funding for all ARPA projects. As such, the following projects will have an increase in ARPA funds in the CIP, pursuant to the discussion on February 7, 2023, with the City Council (the numbers reflect the numbering system used in the attachments to the February 7, 2023, staff report):

- 33. Olympic Skatepark in Colonia (22AR33) - an additional \$1.5M of ARPA
- 46. Oxnard Tennis Center (22AR46) - an additional \$1.0M of ARPA
- 54. Fire Stations 2,3&5 Architectural Design (22AR54) - an additional \$2.0M of ARPA
- 67. 305 W 3rd St.(22AR67) - an additional \$100,000 of ARPA
- 81. Stormwater Catch Basins Full Capture Devices (Edison Canal/Channel Is Harbor (22AR81) - an additional \$500,000 of ARPA

Based upon the information presented to the City Council meeting on February 7, 2023, the following CIP projects will remain in the CIP (or be added to the next CIP as may be necessary) as unfunded projects. These projects are available for the City Council's consideration to fund at a later date, assuming available staff resources to move forward the project (the numbers reflect the numbering system used in the attachments to the February 7, 2023 staff report):

- 15. Saviers Rd Corridor: conceptual plan for widening sidewalks, landscape, lighting
- 17. River Ridge Playing Fields: parking improvements & permanent power (not in Parks & Rec Master Plan)
- 24. Colonia Park: repair and resurface pool, renovation of locker rooms, construction of new public restrooms, basketball court resurfacing (resurfacing project, Parks & Rec Master Plan, pg 215)
- 25. Johnson Creek Park: renovation of snack bar, restrooms, and baseball fields (not in Parks & Rec Master Plan)
- 27. River Ridge Playing Fields: permanent bleachers & stage area; 50% of \$200,000 total cost (not in Parks & Rec Master Plan)
- 52. Bike / Pedestrian project: Path along the SCR-3 levee road north of the River Ridge Golf Course between Ventura Rd and Victoria Rd
- 53. City-wide ADA tree and sidewalk improvements
- 59. Bike / Pedestrian project: Wooley Rd Protected Bike Lanes
- 71. Electrical Plant Water Quality Capture Project
- 72. Phase 1 Design: College Park-Oxnard Regional Stormwater Capture Project
- 73. Phase 1 Design: Drifill Elementary School-Oxnard Regional Stormwater Capture Project
- 74. Phase 1 Design: Frank Intermediate School-Oxnard Regional Stormwater Capture Project
- 76. Storm Drain: Diamond Bar
- 79. Phase 1 Design: East Village/Del Sol Park diversion and infiltration-Oxnard Regional Stormwater Capture Project
- 80. Phase 1 Design: Ventura Road and 2nd St. diversion and infiltration-Oxnard Regional Stormwater Capture Project
- 82. AWPf-Oxnard Regional Stormwater Capture Project Wetland Storage & Sewer Diversion Pilot
- 83. Phase 1 Design: Riverpark basin - recycled water storage project

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

For the FY 2022-23 Adopted CIP Budget, staff recommends moving funds from FY 2023-24 to the current FY 2022-23 as follows:

CIP Project	Fund	FY 2022-23 Adopted CIP Budget	FY 2022-23 Revised CIP Budget
Fire Station 4 Rebuild (C1702/172201)	Capital Growth Fees- Residential	\$0	\$2,000,000 from FY 23-24

The Durley Park Concession Building Repairs Project is scheduled for Council on April 18, 2023, for approval of funding from insurance proceeds and will impact the FY 2022-23 CIP Budget.

Fiscal impacts to the FY 2023-24 Adopted CIP Budget will be included in the Proposed Budget for Fiscal Year 2023-24 during the budget process.

COMMITTEE OUTCOME

The Public Works and Transportation Committee approved 2-0 on April 11, 2023, to approve the staff recommendation and to forward the item for Council approval.

Prepared by: Michael Wolfe, Public Works Director

ATTACHMENTS

1. February 7, 2023 Council Staff Report
2. Presentation



CITY COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. L.2

DATE: February 7, 2023

TO: City Council

FROM: Alexander Nguyen, City Manager, (805) 385-7430, alexander.nguyen@oxnard.org

SUBJECT: Conduct an Oral Discussion Regarding Shifting Gears; Making Adjustments to Align with Economic and Social Circumstances, and Make Decisions to Modify American Rescue Plan Act (ARPA) Projects, Council Priorities, and the Outlook on the City's Restoration Budgets. (120 minutes)

RECOMMENDATION

That the City Council conducts a robust oral discussion and deliberation regarding the following:

1. The need for the City to shift gears and make adjustments to align with economic and social circumstances;
2. Modify ARPA projects;
3. Modify the timelines of Council priorities from five to seven years; and
4. Extend the Restoration Budgets from three to five years.

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/qaD0euj5YbE>

BACKGROUND

In March 2021 the City Council set its five-year priorities (Attachment A).

In the 2021-2022 fiscal year budget the Council set the outlook for three years of "Restoration Budgets" for the City, with the newly approved Measure E funding, to catch up on restorations to the City's deferred maintenance, programs, and services.

In March 2021 Congress passed legislation that provided one-time funding to all Cities and Counties in the nation via the American Rescue Plan Act, with certain restrictions and deadlines for use. Oxnard received \$59.4M.

DISCUSSION

In the immediate aftermath of the global COVID pandemic, the world economy is in turbulent flux, supply chains are disrupted, inflation has spiked, and most, if not all, sectors of the economy are experiencing a significant labor shortage. Local governments are not immune from these external forces. Therefore, we must recognize this and shift gears to adjust to the pace these phenomenon force upon our day-to-day operations as well as our larger scale projects.

To set and meet realistic expectations:

We will recommend modifying ARPA projects to ensure compliance with the funding's deadlines; the modification recommendation chart is Attachment B.

We will recommend modifying the timelines of our current Capital Improvement Projects in order to balance our expected deadlines with our capacity to deliver projects (Attachment C).

We will recommend modifying the timelines of the Council’s priorities from five to seven years.

We will recommend modifying the outlook of Restoration Budgets from three to five years.

STRATEGIC PRIORITIES

This agenda item supports Economic Development strategy. The purpose of Economic Development strategy is to focus on the retention and expansion of Oxnard businesses by increasing the skills and employability of our local workforce, invite new business investments, and target site-based redevelopment opportunities.

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.

This agenda item supports Public Safety strategy. The purpose of the Public Safety strategy is to restore and modernize the delivery of public safety services to provide for the safety of our neighborhoods and health of our community.

FINANCIAL IMPACT

The adjustments and modifications recommended do not exceed the ARPA funding or the City’s approved budget.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Alexander Nguyen, City Manager

ATTACHMENTS

1. Attachment A: 3.16.21_City Council 5-Year Priorities_FINAL
2. Attachment B: ARPA Recommended Modifications - February 2023
3. Attachment B: ARPA Investment List - March 29, 2022
4. Attachment C: Current CIP List - February 2023
5. Attachment D: 2.7.23_City Council Shifting Gears Oral Discussion

Updates to the Five Year Capital Improvement Program for Fiscal Years 2022-2027

Public Works and Transportation Committee
April 11, 2023

City Council
May 2, 2023

Michael L. Wolfe, PE
Director of Public Works

That the Public Works and Transportation Committee recommend that the City Council:

1. Approve and adopt updates to the 2022-2027 City of Oxnard Five Year Capital Improvement Program; and
2. Authorize project budget appropriations of \$2,000,000 in Fiscal Year 2022-23 from the Capital Growth Fees Fund for the Fire Station 4 Rebuild Project (C1702/172201).

That the City Council:

1. Approve and adopt updates to the 2022-2027 City of Oxnard Five Year Capital Improvement Program; and
2. Authorize project budget appropriations of \$2,000,000 in Fiscal Year 2022-23 from the Capital Growth Fees Fund for the Fire Station 4 Rebuild Project (CI702/I72201).

- 5/3/22: City Council approved the 2022-2027 Five Year CIP
 - Two year CIP (funding for FY 22/23 and 23/24)
- City's CIP currently has approximately 140 funded projects
- Over the five years - total cost of all projects, including prior appropriations, is approximately \$700 million
- Includes American Rescue Plan Act (ARPA) funds that were appropriated to capital projects

Mid-cycle adjustments (2-year CIP) -

- Fire Station #4 project
 - Project timeline
 - Moving \$2M forward from FY 23/24 into FY 22/23
- Combining Oxnard Wastewater Treatment Plant (OWTP) projects
 - Already awarded as combined project
 - Clean-up item (6 projects into 1)
- Adding four projects

Proposed additions:

#	CIP Title	Page Number	Proposed Additions
1	Wastewater OWTP: Secondary Clarifiers Rehabilitation	TBD	Project Description: Replacement of mechanical equipment in the secondary clarifiers at the OWTP. Following the design phase two of the eighteen tanks will be rehabbed each year on a rotating basis. Project Funding: \$100,000 in FY 23-24; \$400,000 in FY 24-25
2	Water Production: Well 20 Rehabilitation	TBD	Project Description: Metal shavings were found in a screen of Well 20 indicating an issue with the pump impellers. Phase 1 of this project will be exploratory assessment of the pump and casing. Phase 2 will include above ground pipework improvements and installation of a flow meter. Project Funding: \$150,000 in FY 23-24; \$600,000 in FY 24-25
3	Citywide Security Cameras	TBD	Project Description: Update and add security cameras across all city facilities/locations and will be managed via a holistic cloud solution and service provider. Project Funding: \$2,000,000 ARPA Funding: \$750,000 in FY 23-24; \$1,250,000 in FY 24-25
4	Durley Park Concession Building Repairs	TBD	Project Description: Roof, ventilation, exterior, interior, and electrical repairs resulting from fire damage to the building. Project Funding: \$322,636 Insurance claim

Additional Information -

- Completed projects since CIP was approved
 - Street resurfacing
 - Water
 - Wastewater
 - Parks project
 - Traffic Signals
- February 7th discussion on slow-down and CIP projects
 - Additional ARPA funding recommendations for five projects
 - CIP projects moved to unfunded

Proposing to move funds from FY 2023-24 to the current FY 2022-23 for the following:

CIP Project	Fund	FY 2022-23 Adopted CIP Budget	FY 2022-23 Revised CIP Budget
Fire Station 4 Rebuild (C1702/172201)	Capital Growth Fees-Residential	\$0	\$2,000,000 from FY 23-24

Other appropriations/changes will be part of the FY 23-24 budget process, if necessary



QUESTIONS



CITY COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. L.5

DATE: May 2, 2023

TO: City Council

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

SUBJECT: State of California's Corrective Action Plan for the City of Oxnard's Solid Waste Operations. (10 minutes)

RECOMMENDATION

That the City Council receive and file the State of California Senate Bill 619 Corrective Action Plan (CAP) for the City of Oxnard's Solid Waste Operations.

(Public Works and Transportation Committee approved 2-0.)

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/1bhs0J2LKNU>

BACKGROUND

State of California Senate Bill 1383 (SB 1383) also known as the Short-Lived Climate Pollutants (SLCP) law, was signed on September 9, 2016. SB 1383 requires jurisdictions to increase diversion of organic waste from landfills and meet the statewide target to divert organic landfill disposal by 75% in 2025. The law took effect on January 1, 2022, and required compliance with a majority of its provisions by that date. The City and many other local jurisdictions have struggled to comply with SB 1383's deadlines due to the lack of existing local infrastructure to process organic waste, disruption of supply chains by the Covid-19 pandemic, staffing shortages and a lack of funding from the State for this unfunded mandate.

To provide jurisdictions with relief from penalties for not complying with SB 1383 requirements by January 1, 2022, the State of California passed Senate Bill 619 (SB 619) on October 5, 2021. SB 619 allowed the City to submit a Notice of Intent to Comply (NOIC), proposing a timeline for execution of the provisions required by SB 1383 to avoid civil penalties from the California Department of Resources Recycling and Recovery (CalRecycle) for non-compliance. The City Council passed Resolution No. 15,542 in order for staff to submit the NOIC to CalRecycle. The NOIC was submitted to CalRecycle on March 1, 2022 (Attachment 1).

DISCUSSION

In November 2022, CalRecycle issued a draft Corrective Action Plan (CAP) to the City of Oxnard (City) outlining 30 tasks in order for the City to come into compliance with SB 1383. The City of Oxnard is one of 160 California cities that have been issued a CAP. Environmental Resources (ER) staff and CalRecycle staff worked to finalize the CAP's tasks and target completion dates and concurred to a proposed agreement on February 7, 2023. On March 6, 2023, CalRecycle issued the final CAP to the City (Attachment 2). All tasks must be completed no later than March 1, 2024. Currently, ER staff is confirming the completion of 9 tasks. The remaining 21 tasks need to be completed by March 1, 2024.

Staff's major challenges will be:

1. The biggest SB 1383 compliance challenge is getting residential, multi-family, and commercial waste generators to comply with the new State mandates. Despite numerous attempts to inform our customers, we have yet to reach the State's mandated thresholds for organics and recycling services. The following are highlights of the City's outreach efforts conducted to date:

- a. Mailed four separate letters asking multi-family and commercial generators to sign-up for organic and non-organic recycling service or apply for a waiver if eligible
 - i. 1st letter - mailed March 2016
 - ii. 2nd letter - mailed March 2017
 - iii. 3rd letter - mailed June 2017
 - iv. 4th letter - mailed January 2022
- b. After mailings, staff followed up with phone calls in 2020 and 2021
- c. Mail inserts were sent to generators in their October, November and December 2021 and January 2022 utility bills informing them of the new organic waste recycling mandates
- d. ER Staff has hosted information booths, passed out flyers and conducted presentations on SB 1383 at over 25 community events including farmers markets, neighborhood council meetings, service club meetings, neighborhood clean-up events, car shows and food truck events

2. ER Staff must conduct annual route reviews of all commercial and residential waste collection routes. Organic and non-organic recycling waste containers will be randomly selected and inspected for prohibited items. Waste generators who place prohibited items in a container will be notified of the violation and information will be provided to minimize contamination of the organic and non-organic recycling waste stream.

3. CalRecycle has calculated the City's annual organic waste product procurement target at 16,374 tons. The City will have to identify additional organic waste product procurement opportunities to meet our procurement target. ER staff will work with other City departments to expand the use of recovered organic waste products throughout all City divisions. The City will enter into agreements requiring direct service providers procure organic waste products and provide written documentation of procurement. The City may also procure organic waste products for giveaway to residents and may offer rebates to commercial customers who agree to acquire and use organic waste products on behalf of the City.

4. SB 1383 requires the State, by 2025, to recover 20 percent of edible food for human consumption that would otherwise be disposed of. To achieve this goal the City will partner with the County of Ventura and participating cities to create and develop the Ventura County Regional SB 1383 Food Recovery Plan to work with commercial edible food generators and food sharing non-profits to recover edible food (MOU with the County Attachment 3).

In order to comply with the State mandates, ER staff will be reaching out directly to commercial, industrial and residential customers to help bring them into compliance. Communications will be done in person and by mail through the United States Postal Service. ER staff will visit non-compliant multi-family and commercial generators and begin issuing Notice of Violations (NOV) (Attachment 4). The NOV process will work as follows:

1. **1st NOV** - allows the generator 20 days to come into compliance by starting service for non-organic and organic waste recycling or submitting proof of eligibility for a waiver (waiver eligibility to be determined by ER staff).
2. **2nd NOV** - if no action is taken within the first 20 days of the first issued NOV, ER staff will issue the generator a second NOV through a formal letter via certified mail and allow an additional 20 days to comply.
3. **3rd NOV** - if no action is taken after the second NOV, a third and final NOV will be issued through a formal letter via certified mail or hand-delivered allowing an additional 20 days to comply for a total of 60 days from the first NOV.

If no action is taken by a multi-family or commercial generator after the third NOV, per Section 19-162(D) of Oxnard's City Code, the City will automatically provide the necessary services in order to comply with the non-organic and organic waste recycling requirements of SB 1383. The addition of non-organic and organic waste recycling services will be reflected in the waste generator's utility bill. Costs will vary depending on the required services in order for the generator to come into compliance.

Failure to comply with SB 1383 by March 1, 2024, will result in the City being issued administrative civil penalties of no less than \$500 and no more than \$10,000 per violation per day from CalRecycle depending on the severity of the violation. Additionally, Section 18996.9 of SB 1383 gives CalRecycle the authority to directly issue a NOV and administrative civil penalties to a waste generator for failing to comply with the new State mandates.

While not a direct requirement of State's SB 1383, the City continues to explore opportunities with Colony Energy Partners for processing organic waste at Del Norte Recycling and Transfer Station (Del Norte). Currently, organic waste received to Del Norte is hauled to facilities in Santa Paula and Simi Valley. The exploration of locally addressing the organic waste includes options to have an organic waste recycling facility for processing at the Del Norte. The recovered and recycled organic waste can be used as feedstock, in the production of renewable energy and as compost/fertilizer. If constructed, the facility will enable the City to reduce its costs of transportation and disposal of green and food waste currently collected by the City. As staff progresses on this, updates will be provided to the City Council.

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 fiscal impact for the recommended action. Any new services to customers required by SB 1383 will be charged per the current rate model, when applicable.

It should be noted that in order for the City to comply with all aspects of the State's mandate, the City will need to procure additional materials and equipment in compliance with SB 1383, which may result in additional funding requests in future recommended operating budgets.

COMMITTEE OUTCOME

The Public Works and Transportation Committee approved 2-0 on April 11, 2023, to approve the staff recommendation and to forward the item for Council approval.

Prepared by: Brian Yanez, Assistant Public Works Director, Roberto Serrato, Recycling Manager

ATTACHMENTS

1. Executed NOIC and Resolution - City of Oxnard
2. Oxnard_CAP_Final
3. County Food Recovery Plan MOU
4. Notice of Violation
5. Presentation

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO. 15, 542

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD SERVES AS A NOTICE OF INTENT TO COMPLY WITH SENATE BILL 1383, SECTION 14 CCR - 18997.3.

WHEREAS, the City of Oxnard determines in good faith that the provisions of Senate Bill 1383 would cause the City to incur administrative penalties as defined under Section 18997.3 in violation of the timely execution of some aspects of the requirements resulting in minor violations. Minor violations may include, but are not limited to failure to meet some of the provisions under Sections 17403.0 through 18995.4.

WHEREAS, the City of Oxnard determines in good faith that the provisions of Senate Bill 1383 would cause the City to incur administrative penalties as defined under Section 18997.3 in violation of the timely execution of some aspects of the requirements resulting in moderate violations. Moderate violations may include but are not limited to failure to meet most of the provisions under Sections 17403.0 through 18995.4.

WHEREAS, the City of Oxnard determines in good faith that the provisions of Senate Bill 1383 would cause the City to incur administrative penalties as defined under Section 18997.3 in violation of the timely execution of some aspects of the requirements resulting in major violations. Major violations may include but are not limited to failure to meet all of the provisions under Sections 17403.0 through 18995.4.

In ACCORDANCE WITH, Senate Bill 1383, the City of Oxnard shall make reasonable efforts in a mutually agreeable fashion to maintain to the maximum extent practicable its original intent without violating the provisions of the Bill, thereby causing the imposition of administrative penalties. These provisions include but are not limited to the following:

- Timely execution of enforceable mechanisms,
- Timely adoption of an updated solid waste ordinance,
- Timely implementation of container labeling and color requirements,
- Timely enforcement of edible food waste generator and recovery organizations tracking, education and monitoring,
- Timely determination of technologies that constitute a reduction in landfill disposal with Ventura County, including adequate organic waste capacity,
- Completion of the issuance of waivers,
- Complete records of education and outreach requirements,
- Complete records of 3rd party and self-haulers operating within city limits,
- An adopted Model Water Efficient Landscape Ordinance,
- Compliance with procurement requirements,

- Significant participation of organics and food scraps collections among covered businesses.

PURSUANT TO SB 619, the City of Oxnard determines in good faith that meeting all of the provisions of SB 1383 in its entirety is unfeasible due to the following reasons:

- Cities were given only 13 months to fully prepare for this extremely complex and far-reaching legislation
- Ventura County still fails to have a viable option for organics processing, including no facility with anaerobic digestion capabilities
- Due to COVID 19 pandemic, many businesses have experienced great hardship and therefore are unable to absorb increased costs associated with food waste collection services
- Due to the older nature of the City of Oxnard's infrastructure, many businesses, including most multifamily complexes do not have sufficient capacity inside existing enclosures to accommodate the necessary extra bins required to collect organics
- Due to COVID 19 pandemic, progress towards the adoption of ordinances or enforceable mechanisms has been delayed
- Due to COVID 19 pandemic, the City of Oxnard has experienced supply chain delays resulting in inventory issues

IN ACCORDANCE WITH Senate Bill 619, the City of Oxnard proposes the following timeline for execution of the provisions required by SB 1383 as follows:

- By March 1, 2022, the City Council will adopt an enforceable mechanism(s) and updated solid waste ordinance reflective of requirements in SB 1383
- By June 30, 2022, the City will have finalized the issuance of all waivers and have a conforming reporting mechanism
- By June 30, 2022, the City will have formalized a plan for procurement pursuant to SB 1383 requirements
- By September 30, 2022, the City will have established its edible food recovery program in collaboration with the other 7 cities and the County of Ventura
- By July 1, 2023, the City will be on track to replace and/or modify all collection equipment to conform with provisions in SB 1383
- By the end of 2022, the City will have identified and/or received records from 3rd party and self-haulers
- The City of Oxnard has received Council approval to begin negotiations with a firm to develop vacant property adjacent to the Del Norte Regional Recycling and Transfer Station into a regional organics receiving and processing facility. The City estimates completion of a facility by the end of 2025
- By the end of 2022, the City will have a robust commercial food scraps collection program in place

PASSED, APPROVED and ADOPTED this ^{1st} day of March, 2022, by the following vote:

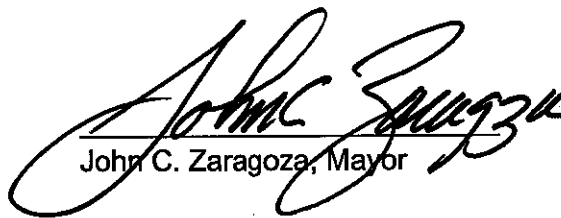
AYES: 7

NOES: 0

ABSENT: 0

ABSTAIN: 0

ATTEST:


John C. Zaragoza, Mayor


Rose Chaparro, City Clerk

APPROVED AS TO FORM:


Stephen M. Fischer, City Attorney

CalRecycle SB 619

Notification of Intent to Comply Narrative

City of Oxnard

(1) Select using the checkboxes below or write in the continuing violations for each applicable regulatory section. For each selection, please describe the specific violations related to the regulatory section.

(A) 14 CCR section 18984 Combined Organic Waste Collection Services. This requirement is not included since the requirements are further specified in sections 18984.1-18984.11.

X (B) 14 CCR section 18984.1 Three-Container Organic Waste Collection Services

- Single-family residential organic waste collection services are nearly 95% implemented
 - Identified sections of routes are being addressed on a case-by-case basis
 - Identify those accounts by January 30, 2022
 - Notify those accounts of their options/requirements by February 18, 2022
 - Supply those accounts with organic waste collection services by March 31, 2022 (depends upon supply chain & available inventory)
 - Identify contamination and/or other violations by way of "lid lifts" starting mid-January 2022
- Multi-family and Commercial business organic waste collection services will be phased in throughout 2022
 - There are approximately 500 Multi-family and 2000 Commercial businesses that fall under AB 1826 $\leq$ 2 cubic yard threshold
 - Approximately 95% of those accounts remain non-compliant with AB 1826 and thus SB 1383 as well.
 - Non-compliant accounts will be sent notification via certified mail by February 1, 2022
 - Accounts will have until March 31, 2022, to subscribe to service

- All accounts remaining out of compliance by July 1, 2022, will receive a Notice of Violation with a 60-day Notice to Comply. Per SB 1383, no penalties can be levied until January 1, 2024.
- All accounts that are eligible for a waiver will be identified, approved, or denied their application and tracked by July 1, 2022

X (H) 14 CCR section 18984.7 Container Color Requirements

- All single-family residential containers conform with color requirements
- Commercial bins currently do not conform with color requirements
 - Commercial bins will be repainted to conform with color requirements starting July 1, 2022
 - All newly purchased commercial bins will conform with color requirements starting July 1, 2022 with phased completion prior to the deadline January 1, 2036

X (I) 14 CCR section 18984.8 Container Labeling Requirements

- The majority of single-family residential containers conform with labeling requirements
- All newly purchased residential containers will conform with labeling requirements starting July 1, 2022 with phased completion prior to the deadline January 1, 2036
- Commercial bins currently do not conform with labeling requirements
 - Commercial bins will be repainted to conform with labeling requirements starting July 1, 2022
 - All newly purchased commercial bins will conform with labeling requirements starting July 1, 2022 with phased completion prior to the deadline January 1, 2036

X (P) 14 CCR section 18988.4. Recordkeeping Requirements for Compliance with Jurisdiction Hauler Program

- The jurisdiction currently complies with the majority of the requirements as specified in 14 CCR section 18988.1 - 18988.3
 - For the purposes of the NOIC, the jurisdiction may not fully comply with the recordkeeping requirements, including, but not limited to
 - A record of hauler compliance, including copies of all haulers reports, copies of all written approvals, denials, and revocations, and/or a

comprehensive record that includes the dates of activities, hauler name, and the type of the action taken by the jurisdiction.

- All Hauler Records, including the provisions specified in this section, shall be addressed by the jurisdiction by December 31, 2022

X (W) 14 CCR section 18993.1. Recovered Organic Waste Product Procurement Target

- Jurisdiction will not meet the Recovered Organic Waste Product Procurement Target of 16,374 tons per year in 2022.
- On or before March 31, 2022, the Jurisdiction's SB 1383 Implementation Point of Contact will
 - provide the designated Department leads (i.e. Purchasing/Procurement, Fleet, Facilities, and Parks and Recreation) a form to report on any written and/or adopted policies
 - provide the designated Department leads (i.e. Purchasing/Procurement, Fleet, Facilities, and Parks and Recreation) a form to report quantities, sources and greenhouse gas emissions reduction conversion/calculations
- The designated Department leads (i.e. Purchasing/Procurement, Fleet, Facilities, and Parks and Recreation) will have until July 15, 2022 to provide this information to the Jurisdiction's SB 1383 Implementation Point of Contact to be included in the August 1, 2022 Annual Report

X (X) 14 CCR section 18993.2. Recordkeeping Requirements for Recovered Organic Waste Procurement Target

- Refer to the previous section

X (Y) 14 CCR section 18993.3. Recycled Content Paper Procurement Requirements

- Refer to the previous section

X (Z) 14 CCR section 18993.4. Recordkeeping Requirements for Recycled Content Paper Procurement

- Refer to the previous section

(2) A detailed explanation of the reasons why the jurisdiction is unable to comply, supported by documentation, if applicable.

- Limited resources. Because this is an unfunded mandate, the City of Oxnard has not had sufficient resources to complete the required work applicable to the population of

over 200,000 residents, 37,000 households, 2,500 commercial businesses, and nearly 500 multi-family properties.

- (i) Despite the efforts to fully staff the Division with adequate staffing resources, recruitments have failed and the lack of applicants during the Covid-19 Pandemic has limited the Division's capacity to just two (2) full-time employees (FTEs) responsible for AB 341 (post-Jurisdictional Compliance Order and Local Implementation Plan 2018 - 2021), AB 1826, SB 1383 implementation plans and outreach / education, in addition to other duties as assigned which include but are not limited to the following
 - 1) General Program Outreach and Education
 - 2) Enforcement of existing local ordinances
 - 3) Service change requests, initiating new service
 - 4) Reviewing newly planned projects via the Design Advisory Committee and Community Development Plan Check
 - 5) Supervising special events
 - 6) Participating in Department-directed special projects, events and reporting
 - 7) Interfacing with the City Manager's Public Information Office
 - 8) Responding to customer inquiries
 - 9) Managing customer account database
 - 10) Applying for and administering grant programs, such as the City-County Beverage Container Redemption and Used Motor Oil Recycling
- (ii) The Collection, MRF and Transfer operations are also struggling with COVID-related absences and difficulty filling 16 current vacancies due to current job market.
- (iii) Amount of additional responsibilities pursuant to the implementation of of SB 1383 including, but not limited to
 - 1) The fact that the City of Oxnard is not just the jurisdiction, but also the Collection hauler, MRF processing and transfer facility
 - 2) Coordinating with Collection's to ensure adherence with three-container waste collection services

- 3) Coordinating with Collection's to ensure adherence to container color and labeling requirements
 - 4) Conducting route reviews and insuring contamination minimization
 - 5) Coordinating responsible party's recordkeeping requirements
 - 6) Coordinating Waiver issuance
 - 7) Conducting Outreach and Education regarding
 - a) Organic Waste Recovery activities
 - b) Edible Food Recovery activities
 - 8) Recordkeeping for
 - a) Organic Waste Recovery activities
 - b) Edible Food Recovery activities
 - 9) Outreach to and recordkeeping of Self and 3rd party haulers' activities
 - 10) Coordinating the jurisdiction's achievement of the Recovered Organic Waste Procurement Targets
 - 11) Semi-annual and Annual reporting
 - 12) Enforcement of violations/Code Enforcement
- Lack of adequate Organic Waste Processing in the region.
 - (i) Despite the region's continued and long-standing efforts to approve and construct the necessary infrastructure to collect, process and recover organic waste, there is no such facility at this time
 - (ii) The City of Oxnard is currently working opportunities for local organic processing, however, such an investment will require more time
 - (iii) The current short-term solution, while technically meeting the requirements of SB 1383, only creates more inefficiencies, redundancies, externalized problems, and stress on an already limited infrastructure
 - Antiquated, outdated and impractical data management system.
 - (i) The City of Oxnard's billing system is still on a 1990s DOS-based software application, which was developed and implemented before the necessary requirements of SB 1383
 - 1) Staff has submitted a request in the recent SB 1383 Implementation Grant to ameliorate this deficiency
- (3) A description of the impacts of the COVID-19 pandemic on compliance.

- Since the City of Oxnard is not only the local jurisdiction responsible for SB 1383 implementation, we are also the hauler and the transfer facility, which complicates and increases the number of opportunities for disruption due to COVID.
 - (i) Since the start of the pandemic, staff call-outs due to COVID have increased significantly.
 - (ii) COVID has impacted the supply chain, delaying the resupply of container inventory
 - (iii) The City also experienced a Ransomware attack early in 2020, which further impacted operations

(4) Provide a description of the proposed actions the jurisdiction will take to remedy the violations with a proposed schedule for completing each action. The proposed actions shall be tailored to remedy the violations in a timely manner.

- Provided in the previous section.

I hereby certify under penalty of perjury that the information provided herein is true and correct to the best of my knowledge.

 Signature	John C. Zaragoza Printed Name	Mayor Title	March 6, 202 Date
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RESOLUTIONS

ANNEXATION

- () DEVELOPMENT SERVICES - GEORGE ROBERTS
- () FINANCE - MIKE MORE
- () FIRE - BRAD WINDSOR
- () GIS - DAVID ENDELMAN
- () JIM CHEN

AMENDMENTS

- () DAVID ENDELMAN
- () LAFCO (5 CERTIFIED COPIES)
- () LICENSING - TAMMY GUTIERREZ
- () CUSTOMER SERVICE - EDEN ALOMERI

PLANNING

- () SUE MARTIN
- () SAL MANCHA
- () PROPERTY OWNERS*

FEES

- () CITY TREASURER - DANIELLE NAVAS
- () CUSTOMER SERVICE - EDEN ALOMERI (WATER/WASTEWATER/TRASH)
- () LICENSING TAMMY GUTIERREZ

DEVELOPMENT SERVICES

- () STEVE NEWMAN
- () JEFF PENGILLEY
- () PAUL WENDT
- () PLANNING - SUE MARTIN

STREET NAME CHANGE~VACATION/ABANDONMENT OF ALLEYS~STREETS

- () CUSTOMER SERVICE - EDEN ALOMERI
- () DEVELOPMENT SERVICES - GEORGE ROBERTS
- () FIRE - GARY SUGICH

PLANNING

- () SUE MARTIN
- () SAL MANCHA

GIS

- () JIM CHEN
- () DAVID ENDELMAN

PUBLIC WORKS (STREETS)

- () DEAN YAMAMOTO
- () PHILIP GREGOIRE
- () POLICE - MARTIN MEYER

CHANGE

- () BOARD OF SUPERVISORS - 800 SOUTH VICTORIA AVE., VENTURA 93009
- () VERIZON CA, INC: ROBERT.MUSGROVE@VERIZON.COM
- () TIME WARNER CABLE: mike.barbarine@TWC.com
- () POST MASTER - 1961 NORTH C STREET, OXNARD 93030
- () PROPERTY OWNERS
- () SOUTHERN CALIFORNIA EDISON: WILLIAMM@SCE.COM
- () SOUTHERN CALIFORNIA GAS: jchow@semprautilities.com
- () RAND McNALLY: consumeraffairs@randmcnally.com
- () VENTURA COUNTY ASSESSOR'S OFFICE: claudjung@ventura.org
- () VENTURA EMERGENCY OPERATOR: erinbrockus@ventura.org

SPECIAL USE/PLANNED DEVELOPMENT PERMITS

- () APPLICANT
- () ABC (LIQUOR) LESLIE.POND@ABC.CA.GOV
- () DEVELOPMENT SERVICES - PAUL WENDT
- () PLANNING - SUE MARTIN

OTHER/DESCRIPTION:

(X)

NOTES:

Item # 16 / VOTE =

RESOLUTION NO.

ADOPTION DATE:

03/01/2022

DATE DISTRIBUTED:

03/02/2022

BY:

DK

LAFCO RESOLUTIONS

- () POLICE -
- () GIS - JOANNA GENTRY
- () FIRE - GARY SUGICH

GENERAL PLAN AMENDMENTS

- () APPLICANT
- PLANNING

- () SUE MARTIN
- () SAL MANCHA
- () CHRIS WILLIAMSON
- () CITY CLERK'S BINDER

APPEALS

- () APPLICANT
- () APPELLANT

TRACTS/PARCEL MAPS

- () APPLICANT
- () DEVELOPMENT SERVICES - PAUL WENDT
- () FINANCE - MIKE MORE
- () GIS - JOANNA GENTRY
- () PARKS & FACILITIES - MICHAEL HENDERSON
- PLANNING
- () SUE MARTIN
- () SAL MANCHA

ZONE VARIANCE/ZONE

- () COUNTY ASSESSOR 1/2010
- () APPLICANT
- () FINANCE - MIKE MORE
- () GIS - JOANNA GENTRY
- PLANNING:
- () SUE MARTIN
- () SAL MANCHA

CERTIFIED COPIES

- () CUSTOMER SERVICE - EDEN ALOMERI
- () LICENSING - TAMMY GUTIERREZ
- () COUNTY ASSESSOR - 1/2010

STATE OF CALIFORNIA

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

CORRECTIVE ACTION PLAN AND COMPLAINT FOR PENALTY
1354.SLCP.CAP.2023.3

Before: The State of California
Department of Resources Recycling and Recovery
1001 I Street
Sacramento, CA 95814

In the Matter of: City of Oxnard
111 South Del Norte Boulevard
Oxnard, CA 93030

BACKGROUND AND PURPOSE

1. The California Department of Resources Recycling and Recovery is hereinafter referred to as "CalRecycle."
- 1.1 CalRecycle, in consultation with the California Air Resources Board, adopted regulatory requirements, consistent with the mandate of Senate Bill 1383 (Lara, Chapter 395, Statutes of 2016), that are designed to achieve the organic waste reduction goals established in section 39730.6 of the Health and Safety Code through a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2025. The purpose of these reductions is to further the statewide effort to reduce emissions of short-lived climate pollutants (SLCP), including methane. These SLCP regulations are referred to hereinafter as the "Regulations" and can be found at Title 14 California Code of Regulations (CCR) sections 18981.1 through 18998.4. Cities, counties, and special districts are responsible for implementing these Regulations in their communities starting January 1, 2022.
- 1.2 The City of Oxnard is hereinafter referred to as "Jurisdiction." Jurisdiction is required to comply with the Regulations.
- 1.3 Jurisdiction is or expects to be facing continuing violations of the Regulations commencing during the 2022 calendar year, which could result in significant administrative civil penalties under the Regulations.

- 1.4 Senate Bill 619 (Laird, Chapter 508, Statutes of 2021), through amendments to section 42652.5 of the Public Resources Code (PRC), created a mechanism called a Notification of Intent to Comply through which a local jurisdiction may secure administrative civil penalty relief from any continuing violations of the Regulations for the 2022 calendar year and may be eligible for a broader and longer-term regulatory compliance path, including suspended administrative civil penalties, through a Corrective Action Plan.
- 1.5 Under PRC section 42652.5(e), the Notification of Intent to Comply must include a description of proposed actions to remedy the violations, as well as a proposed schedule for those actions, that the Jurisdiction commits to undertake to remedy the violations.
- 1.6 The Notification of Intent to Comply is hereinafter referred to as "Notification."
- 1.7 For violations taking more than 180 days to correct, PRC section 42652.2 allows CalRecycle to determine, in its sole discretion, that violations identified in a Notification may be addressed through a Corrective Action Plan issued pursuant to 14 CCR section 18996.2.
- 1.8 The Corrective Action Plan is hereinafter referred to as "CAP."
- 1.9 For violations disclosed in the Notification approved by CalRecycle as meeting the requirements of PRC section 42652.5(e), CalRecycle shall waive administrative civil penalties during the 2022 calendar year if the Jurisdiction implements the proposed actions according to the approved Notification's schedule of actions and, as applicable, approved CAP schedule of actions.
- 1.10 For violations disclosed in the Notification that commence during the 2022 calendar year and continue into the 2023 calendar year, administrative civil penalties may begin accruing as of January 1, 2023. SB 619 provides administrative civil penalties accruing on and after January 1, 2023, shall be waived upon complete compliance with an approved CAP schedule of action.

DETERMINATION OF VIOLATIONS

2. As authorized by PRC section 42652.5(c), the Jurisdiction notified CalRecycle of its ongoing or anticipated violations of the Regulations and the PRC through a Notification submitted March 1, 2022.
- 2.1 CalRecycle reviewed the Jurisdiction's Notification, its description of the Jurisdiction's disclosed violations of the Regulations, and proposed actions and schedule for those actions to remedy those violations for compliance with PRC section 42652.5(e). CalRecycle approved the Notification's proposed actions and schedule of actions, as modified by this CAP.

2.2 The Jurisdiction's Notification identified the following violations of the Regulations as follows:

- 2.2.1 The Jurisdiction is and has been in violation of 14 CCR section 18984.1 in that since January 1, 2022, the Jurisdiction has not provided three-container organic waste collection service to all residential and commercial generators.
- 2.2.2 The Jurisdiction is and has been in violation of 14 CCR section 18984.7 in that since January 1, 2022, the Jurisdiction has not distributed new containers meeting the container color requirements.
- 2.2.3 The Jurisdiction is and has been in violation of 14 CCR section 18984.8 in that since January 1, 2022, the Jurisdiction has not distributed new containers with proper container labeling.
- 2.2.4 The Jurisdiction is and has been in violation of 14 CCR section 18984.11 in that since January 1, 2022, the Jurisdiction has not verified each waived generator is eligible for a waiver.
- 2.2.5 The Jurisdiction is and has been in violation of 14 CCR section 18988.4 in that since January 1, 2022, the Jurisdiction has not met recordkeeping requirements for compliance with jurisdiction hauler program.
- 2.2.6 The Jurisdiction is and has been in violation of 14 CCR section 18993.1 in that since January 1, 2022, the Jurisdiction has not procured recovered organic waste products to meet or exceed its current annual recovered organic waste product procurement target.
- 2.2.7 The Jurisdiction is and has been in violation of 14 CCR section 18993.2 in that since January 1, 2022, the Jurisdiction has not included all documents supporting its compliance with Article 12 of the Regulations in the implementation record required by section 18995.2.
- 2.2.8 The Jurisdiction is and has been in violation of 14 CCR section 18993.3 in that since January 1, 2022, the Jurisdiction has not procured paper products, and printing and writing paper, consistent with the requirements of sections 22150-22154 of the Public Contract Code.
- 2.2.9 The Jurisdiction is and has been in violation of 14 CCR section 18993.3 in that since January 1, 2022, the Jurisdiction has not required all businesses from whom it purchases paper products and printing and writing paper to comply with the requirements of that section.
- 2.2.10 The Jurisdiction is and has been in violation of 14 CCR section 18993.4 in that since January 1, 2022, the Jurisdiction has not included all documents supporting its compliance with Article 12 of the Regulations in the implementation record required by section 18995.2.

2.3 CalRecycle accepted the Jurisdiction's self-reported Notification and characterization of its violations therein. CalRecycle has not undertaken a

compliance review of Jurisdiction, and thus CalRecycle's approval of the Notification or this CAP should not be taken as an indication that Jurisdiction is in full compliance with Regulations in other respects. CalRecycle will be undertaking a compliance review of all jurisdictions in the future.

SCHEDULE FOR COMPLIANCE

3. Based on the foregoing DETERMINATION OF VIOLATIONS, CalRecycle finds that:
- a. The Jurisdiction worked with CalRecycle to develop this CAP, which includes schedule of actions necessary for the Jurisdiction to achieve address the violations disclosed in the Notification and described in Section 2 (Determination of Violations) above.
 - b. CalRecycle hereby approves and issues this CAP pursuant to PRC section 42652.5(c)-(e) and Title 14 CCR section 18996.2.
 - c. The Jurisdiction will fully implement the programs identified in this CAP by the dates provided in the Section 3.2 below.
 - d. CalRecycle will monitor the Jurisdiction's continued implementation of the programs identified in the CAP from March 6, 2023 through March 31, 2024 ("the oversight period") to assure implementation is complete and timely. The oversight period may be extended at the discretion of CalRecycle if any extensions to the Schedule are granted as described below in Sections 4.4 and 4.5.
 - e. During the oversight period, the Jurisdiction will submit status reports to CalRecycle and attend status meetings with CalRecycle to demonstrate the ongoing progress the Jurisdiction is making on remedying the violations described above.
 - f. During the oversight period, the Jurisdiction will provide bimonthly status reports to CalRecycle:

Report Cycle

Report 1: May 31, 2023, covering March 1, 2023 – April 30, 2023

Report 2: July 31, 2023, covering May 1, 2023 – June 30, 2023

Report 3: September 30, 2023, covering July 1, 2023 – August 31, 2023

Report 4: November 30, 2023, covering September 1, 2023 – October 31, 2023

Report 5: January 31, 2024, covering November 1, 2023 – December 31, 2023

Report 6: March 31, 2024, covering January 1, 2024 – March 1, 2024

- g. The status reports are to be used to document the status and work completed for each of the identified tasks in the CAP. For each task in the CAP, the Jurisdiction will explain the status of the task, specifying what actions have been taken to complete the task.

- h. If the work has been delayed or has not been completed, the Jurisdiction will explain the reason(s) for the delay/incompletion. The Jurisdiction will also attach any previously submitted extension requests made pursuant to section 4.4 of this CAP and any extensions granted pursuant to section 4.5 of this CAP, using additional sheets as necessary for the report. CalRecycle may consider the explanation in deciding whether to allow the Jurisdiction to continue to operate under the Notification and CAP or to revoke approval of the Notification and CAP pursuant to PRC section 42652.5(d).
- i. During the oversight period, the Jurisdiction will meet with CalRecycle telephonically or via other remote electronic means (such as Teams or Zoom) bimonthly to provide interim progress updates on the following schedule:

Meeting Cycle

Meeting 1: During April 2023

Meeting 2: During June 2023

Meeting 3: During August 2023

Meeting 4: During October 2023

Meeting 5: During December 2023

Meeting 6: During February 2024

- j. The status meetings are to be used to discuss the most recent status report and to discuss interim progress made by the Jurisdiction on each of the identified tasks in the CAP.
 - k. Prior to the close of the oversight period, CalRecycle may undertake a compliance review or field visit to supplement other status reporting.
 - l. At any time prior to the conclusion of the oversight period, if CalRecycle determines the Jurisdiction has failed to implement the programs identified in the Notification and CAP, has failed to participate in status reporting during the oversight period, has substantially misrepresented its progress in status reporting, or has substantially failed to make interim progress on Tasks set out in Section 3.2 for four consecutive reporting periods, CalRecycle may immediately issue a notice revoking its approval of the Notification and CAP and indicating its intent to impose penalties as provided in PRC section 42652.5. Title 14 CCR sections 18997.3, 18997.5, and 18997.6 and PRC section 42652.5 governs the process and considerations CalRecycle will utilize in calculating and assessing administrative civil penalties against the Jurisdiction, which may be up to \$10,000 per day per violation.
- 3.1 Based on the foregoing DETERMINATION OF VIOLATIONS, it is hereby ordered that the Jurisdiction will implement the actions described below in accordance with the compliance deadlines contained in the schedule of actions to remedy violations as set forth in Section 3.2 below.

3.2 Schedule and Program of Actions

Section 18984.1 Three-Container Organic Waste Collection Services

The Jurisdiction will provide three-container service to all residences.

Task #	Description	Target Completion Date
TASK 1	The Jurisdiction will identify single-family residential generators that do not have green waste collection.	1/30/2022 (Task completion to be verified)
TASK 2	The Jurisdiction will develop an enforcement ordinance requiring compliance with organic waste collection service and present it to Council.	3/1/2022 (Task completion to be verified)
TASK 3	The Jurisdiction will adopt an enforcement ordinance requiring compliance with organic waste collection service.	3/1/2022 (Task completion to be verified)
TASK 4	The Jurisdiction will distribute organics recycling collection containers to remaining 3% of residential customers currently without service.	2/1/2024
TASK 5	The Jurisdiction will provide three-container container waste collection service to all residential generators that are not subject to an exemption or waiver from such service under 14 CCR sections 18984.11, 18984.12, or other provision of the Regulations, or are not an authorized self-hauler subject to the Jurisdiction's ordinance requiring compliance with the requirements of section 18988.3. In implementing this container system, the Jurisdiction will ensure materials are sorted into the containers properly by generators.	2/1/2024

The Jurisdiction will provide three-container collection service to all commercial generators.

Task #	Description	Target Completion Date
TASK 6	The Jurisdiction will provide notice to all multi-family generators without recycling and/or organics collection.	1/26/2022 (Task completion to be verified)

TASK 7	The Jurisdiction will develop an enforcement ordinance requiring compliance with organic waste collection service and present it to Council.	3/1/2022 (Task completion to be verified)
TASK 8	The Jurisdiction will adopt an enforcement ordinance requiring compliance with organic waste collection service.	3/1/2022 (Task completion to be verified)
TASK 9	The Jurisdiction will make contact with a minimum of 75 commercial generators per month to determine service level needs.	12/31/2022 (Task completion to be verified)
TASK 10	The Jurisdiction will make contact with a minimum of 45 multi-family generators per month to determine service level needs.	6/30/2023
TASK 11	The Jurisdiction will provide commercial generators that do not have organics collection service or an approved waiver with a 60-day notice to comply.	3/1/2024
TASK 12	The Jurisdiction will distribute organics recycling collection containers to all remaining 1,505 commercial businesses without organics collection service or determine waiver eligibility.	3/1/2024
TASK 13	The Jurisdiction will provide multi-family generators that do not have organics collection service or an approved waiver with a 60-day notice to comply.	3/1/2024
TASK 14	The Jurisdiction will begin automatic service to 526 multi-family generators.	3/1/2024
TASK 15	The Jurisdiction will provide three-container waste collection service to all commercial generators, including multi-family generators, that are not subject to an exemption or waiver from such service under 14 CCR sections 18984.11, 18984.12, or other provision of the Regulations, or are not an authorized self-hauler subject to the Jurisdiction's ordinance requiring compliance with the requirements of section 18988.3. In	3/1/2024

	implementing this container system, the Jurisdiction will ensure materials are sorted into the containers properly by generators.	
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Section 18984.7 Container Color Requirements

The Jurisdiction will distribute new containers meeting the container color requirements.

NOTE: A jurisdiction is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the color requirements prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.

Task #	Description	Target Completion Date
TASK 16	If purchasing new containers, the Jurisdiction will provide containers for collection services to generators that comply with the container color requirements specified in Article 3 of the Regulations. The Jurisdiction has indicated that existing commercial containers will be repainted to conform to color requirements and that existing residential containers already meet the color requirements.	9/30/2023

Section 18984.8 Container Labeling Requirements

The Jurisdiction will provide proper container labeling on any new containers purchased.

Task #	Description	Target Completion Date
TASK 17	The Jurisdiction will develop labeling or use model labeling provided by CalRecycle for use on containers. - Labels on containers must include language or graphic images or both indicating the primary materials accepted and the primary materials prohibited in that container, OR - Containers must include imprinted text or graphic images indicating the primary materials accepted and the primary materials prohibited in that container.	7/1/2022 (Task completion to be verified)

TASK 18	The Jurisdiction will label each new container or lid provided to generators. Labels will be consistent with the applicable container collection requirements specifying what materials are allowed to be placed in each container.	7/1/2022 (Task completion to be verified)
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Section 18984.11 Waivers

The Jurisdiction will verify each waived generator is eligible for a waiver.

Task #	Description	Target Completion Date
TASK 19	The Jurisdiction will issue waivers to all verified eligible generators and will establish a conforming reporting mechanism for waived generators.	12/31/2023

Section 18988.4 Recordkeeping Requirements for Compliance with Jurisdiction Hauler Program

The Jurisdiction will establish recordkeeping for compliance with jurisdiction hauler program.

Task#	Description	Target Completion Date
TASK 20	The Jurisdiction will establish a system for documenting and compiling records regarding recordkeeping and reporting.	11/30/2023
TASK 21	The Jurisdiction will begin tracking and compiling documentation in the Implementation Record and will include at a minimum: - Ordinances, contracts, franchise agreements, policies, procedures, or programs relevant to this section. - A description of the Jurisdiction's collection program including: - Type(s) of collection system(s) the Jurisdiction uses. - Type(s) and condition(s) of approvals of self-haulers, and criteria for approvals, denials and revocations. - The process for issuing, revoking, and denying written approvals. Any requirements associated with self-hauling and back-hauling.	12/31/2023

	• A record of the Jurisdiction, as the municipal hauler, and self-hauler compliance with local ordinance(s) and the requirements of Article 7 of the Regulations including the following information: ○ Copies of all required reports maintained by the Jurisdiction, as municipal hauler. ○ Copies of all reports required from self-haulers ○ Copies of all written approvals, denials, and revocations. All records will include the date of action, the name of the self-hauler, and the type of the action taken by the Jurisdiction.	
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Section 18993.1 Recovered Organic Waste Product Procurement Target

The Jurisdiction will procure organic waste products to meet its procurement target.

Task #	Description	Target Completion Date
TASK 22	The Jurisdiction will identify additional procurement opportunities within its departments and divisions for expanding the use of recovered organic waste products. • The Jurisdiction will work with its Department leads (i.e. Purchasing/Procurement, Fleet, Facilities, and Parks and Recreation) to identify additional procurement opportunities within its departments and divisions for expanding the use of recovered organic waste products.	6/30/2023
TASK 23	The Jurisdiction will annually procure a quantity of recovered organic waste products that meets or exceeds its current annual recovered organic waste product procurement target by one or both of the following: • Directly procuring recovered organic waste products for use or giveaway. • Requiring, through a written contract or agreement, that a direct service provider to the Jurisdiction procure recovered organic waste products and provide written documentation of such procurement to the Jurisdiction.	11/30/2023
TASK 24	The Jurisdiction will meet regulatory procurement targets established by CalRecycle pursuant to 14 CCR section 18993.1; enforcement of this provision by CalRecycle will be consistent with the legislative directives in PRC section 42652.5 (a)(5)(B) and 42652.6, as amended in AB 1985 (R. Rivas, Chapter 344, Statutes of 2022).	11/30/2023

Section 18993.2 Recordkeeping Requirements for Recovered Organic Waste Procurement Target

The Jurisdiction will establish recordkeeping related to recovered organic waste procurement.

Task #	Description	Target Completion Date
TASK 25	The Jurisdiction will include all documents supporting compliance with Article 12 of the Regulations in the implementation record including, but not limited to, the following: • A description of how the Jurisdiction will comply with the requirements of Article 12 of the Regulations. • The name, physical location, and contact information of each entity, operation, or facility from whom the recovered organic waste products were procured, and a general description of how the product was used, and if applicable, where the product was applied. ○ The Jurisdiction's SB 1383 Implementation Point of Contact will provide designated Department leads (i.e. Purchasing/Procurement, Fleet, Facilities, and Parks and Recreation) a form to report any written and/or adopted policies and a form to report quantities, sources and greenhouse gas emissions reduction conversion/calculations. • All invoices or similar records evidencing all procurement. • If including procurement of recovered organic waste products made by a direct service provider to comply with the procurement requirements of section 18993.1(a), the Jurisdiction will include all records of procurement of recovered organic waste products made by the direct service provider on behalf of the Jurisdiction including invoices or similar records evidencing procurement. • If a jurisdiction will include renewable gas procured from a POTW for any of the uses identified in section 18993.1(f)(2) to comply with the procurement mandate of Section 18993.1(a), a written certification by an authorized representative of the POTW, under penalty of perjury in a form and manner determined by the Jurisdiction, attesting to the following for the applicable procurement compliance year:	8/1/2023

	• (A) That the POTW was in compliance with the exclusion in Section 17896.6(a)(1); • (B) The total tons of organic waste received from the types of solid waste facilities listed in Section 18993.1(h)(1); and • (C) The percentage of biosolids that the POTW produced and transported to activities that constitute landfill disposal. • If a jurisdiction will include electricity procured from a biomass conversion facility to comply with the procurement mandate of Section 18993.1(a), a written certification by an authorized representative of the biomass conversion facility certifying that biomass feedstock was received from a permitted solid waste facility identified in 18993.1(i) will be provided to the Jurisdiction. The certification will be furnished under penalty of perjury in a form and manner determined by the Jurisdiction. • If the Jurisdiction is implementing the procurement requirements of Section 18993.1 through an adjusted recovered organic waste product procurement target pursuant to Section 18993.1(j), the Jurisdiction will include records evidencing the 6 total amount of transportation fuel, electricity, and gas for heating applications procured during the calendar year prior to the applicable reporting period. • For jurisdictions complying with the requirements of Section 18993.1, through the procurement of mulch, a copy of the ordinance or similarly enforceable mechanism the Jurisdiction has adopted requiring that mulch procured by the Jurisdiction or a direct service provider meets the land application standards specified in Section 18993.1.	
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Section 18993.3 Recycled Content Paper Procurement Requirements

The Jurisdiction will procure paper products, and printing and writing paper, consistent with the Requirements.

Task #	Description	Target Completion Date
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TASK 26	The Jurisdiction will research and identify vendors with paper products meeting the requirements of sections 22150-22154 of the Public Contract Code and ensure paper products and printing and writing paper is eligible to be labeled with an unqualified recyclable label as defined in Code of Federal Regulations (CFR) Section 260.12.	3/1/2024
TASK 27	The Jurisdiction will procure paper products, and printing and writing paper meeting the Requirements.	3/1/2024
TASK 28	The Jurisdiction will require all businesses from whom the Jurisdiction purchases paper products and printing and writing paper to certify in writing: • The minimum percentage, if not the exact percentage, of postconsumer material in the paper products and printing and writing paper offered or sold to the Jurisdiction. ○ The Jurisdiction may waive the certification requirement if the percentage of postconsumer material in the paper products, printing and writing paper, or both can be verified by a product label, catalog, invoice, or a manufacturer or vendor Internet website. ○ That the paper products and printing and writing paper offered or sold to the Jurisdiction is eligible to be labeled with an unqualified recyclable label as defined in 16 CFR Section 260.12.	3/1/2024

Section 18993.4 Recordkeeping Requirements for Recycled Content Paper Procurement

The Jurisdiction will establish recordkeeping related to recycled content paper procurement.

Task #	Description	Target Completion Date
TASK 29	The Jurisdiction will establish a system for tracking purchases for recordkeeping and reporting.	8/1/2023

TASK 30	The Jurisdiction will begin tracking and compiling documentation, including but not limited to the following: 1. Copies of invoices, receipts or other proof of purchase that describe the procurement of paper products by volume and type for all paper purchases. 2. Copies of all certifications or other verification required.	8/1/2023
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COMPLIANCE REVIEW, ENFORCEMENT, AND RELEASE

4. Communications. All approvals and decisions of CalRecycle regarding notifications will be communicated to the Jurisdiction in writing by the Branch Chief, Jurisdiction and Agency Compliance and Enforcement Branch, Waste Permitting, Compliance and Mitigation Division, or the Branch Chief's designee. No formal advice, guidance, suggestions, or comments by CalRecycle regarding reports, plans, specifications, schedules, or any other writings by Jurisdiction shall be construed to relieve the Jurisdiction of the obligation to obtain such formal approvals as may be required.

- 4.1 Submittal. All reporting from the Jurisdiction described in section 3 (Schedule for Compliance), paragraph 3.f, shall be submitted through an online portal or compliance module developed by CalRecycle with instructions provided to Jurisdiction. All other communications from the Jurisdiction according to this CAP shall be sent in writing electronically to:

Mia Hunt
Mia.Hunt@calrecycle.ca.gov

- 4.2 Compliance Review. At the end of the oversight period or at any time deemed appropriate by CalRecycle, CalRecycle will meet with the Jurisdiction to assess the Jurisdiction's CAP implementation efforts and to determine whether or not the Jurisdiction has timely complied with all commitments in all sections of this CAP. If requested by the Jurisdiction, CalRecycle has discretion to issue notice of a hearing at any time upon its staff's recommendation that the Jurisdiction has completed the conditions of the CAP. In accordance with PRC section 42652.5, failure to implement programs and or comply with all sections of the CAP at any time may result in CalRecycle's revocation of its approval of the Notification and CAP and imposition of administrative civil penalties retroactively to the date of violation in 2022, for administrative civil penalties accruing in 2023, and for administrative civil penalties accruing during any other additional time covered by the Notification and CAP. These potentially applicable penalties are described in Section 5.0 of this CAP.

- 4.3 CalRecycle Review and Approval: If CalRecycle determines that any report, plan, schedule, or other document submitted for approval pursuant to this CAP fails to

comply with the Notification as amended by this CAP or fails to achieve successful implementation of the Regulations, CalRecycle may:

- a. Amend the CAP as appropriate to remedy the violations of the Regulations expeditiously, and/or
- b. Serve a notice that CalRecycle will revoke approval of the Notification and consider the imposition of penalties in accordance with Title 14 CCR sections 18997.3, 18997.5, and 18997.6.

- 4.4 Extension Request and Other Task Modification Requests: If the Jurisdiction determines that it will be unable to perform any activity or submit any document within the time required under this CAP, the Jurisdiction may, as far in advance of the due date as possible, request an extension of time in writing. The extension request shall include a justification for the delay. If the Jurisdiction finds that a task required by this CAP in Section 3.1 is not feasible, despite the Jurisdiction's best and substantial efforts, the Jurisdiction may propose an alternative task that is substantially similar or equally effective to the original task, subject to the approval of CalRecycle. The modification request shall include an explanation of the infeasibility, an explanation of how the alternative task is substantially similar or equally effective, and a justification for any extension of time associated with the change.
- 4.5 Extension and Other Task Modification Approvals: If CalRecycle determines that good cause exists for an extension, considering the factors set out in Title 14 CCR section 18996.2(a)(2), it will grant an extension as appropriate and specify in writing a new compliance schedule. If CalRecycle determines that good cause exists for the change in task because the original task is infeasible and the alternative task is substantially similar or equally effective, it will grant an approval and extension as appropriate and specify in writing the new task; additionally, if CalRecycle determines that good cause exists for any extension associated with the change in task, considering the factors set out in Title 14 CCR section 18996.2(a)(2), it will grant an extension as appropriate and specify in writing a new compliance schedule.
- 4.6 Compliance with Applicable Laws: The Jurisdiction shall carry out this CAP in compliance with all Local, State, and Federal requirements, including but not limited to requirements to obtain necessary permits.
- 4.7 Liability: Nothing in this CAP shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of the Jurisdiction, including for violations of the Regulations that were not disclosed in the Notification and any violations of the Regulations that the Jurisdiction fails to remedy notwithstanding commitments in the Notification and this CAP.

- 4.8 Government Liabilities: The State of California and CalRecycle shall not be liable for injuries or damages to persons or property resulting from acts or omissions in carrying out activities pursuant to this CAP, nor shall the State of California be held as a party to any contract entered into by the Jurisdiction or its agents in carrying out activities pursuant to the CAP. The Jurisdiction shall indemnify, defend, and save harmless the State, its officers, agents, and employees from any and all claims and losses accruing or resulting in connection with the performance of this CAP.
- 4.9 Parties Bound: This CAP shall apply to and be binding upon the Jurisdiction and upon CalRecycle and any successor agency (regional agency, etc.) that may have responsibility for, and the authority over, the subject matter of this CAP.

PENALTY

5. Penalties, if any, shall be assessed and calculated in accordance with the provisions of PRC 42652.5 and Title 14 CCR sections 18997.3, 18997.5, and 18997.6. Penalties shall be calculated based on the factors set out in section 18997.3 and may be as much as \$10,000 per day per violation for the duration of the violation(s).
- 5.1 Penalty Procedures. Penalty, if any, shall be imposed in accordance with the procedures and methodology set out in PRC section 42652.5 and Title 14 CCR sections 18997.3, 18997.5, and 18997.6. Regulatory violations that are considered “minor,” meaning they involve violations constituting minimal deviation from regulations, shall be subject to penalties of no less than five hundred dollars (\$500) per violation and no more than four thousand dollars (\$4,000) per violation per day; “moderate” violations are subject to no less than four thousand dollars (\$4,000) per violation and shall be no more than seven thousand five hundred dollars (\$7,500) per violation per day; and “major” violations, are subject to penalties no less than seven thousand five hundred dollars (\$7,500) per violation per day and no more than ten thousand dollars (\$10,000) per violation per day. The following types of deviations are deemed to be “major” under the regulations for the purposes of assessing penalties:
- a. Failure to have any ordinance or similarly enforceable mechanism for organic waste disposal reduction and edible food recovery.
 - b. Failure to have a provision in a contract, agreement, or other authorization that requires a hauler to comply with the requirements the Regulations.
 - c. Failure to have an edible food recovery program.
 - d. Failure to have any Implementation Record.
 - e. Implementation or enforcement of an ordinance, policy, procedure, condition, or initiative that is prohibited under Title 14 CCR sections 18990.1 or 18990.2.
 - f. Failure to submit the reports required in Title 14 CCR sections 18994.1 and 18994.2.

EFFECTIVE DATE

6. Issuance. This Corrective Action Plan is final and effective from the date of issuance.

6.1 Date of Issuance March 6, 2023

Mark de Bie Digitally signed by Mark de Bie
Date: 2023.03.06 14:51:42
-08'00'

Mark de Bie, Deputy Director
Waste Permitting, Compliance and Mitigation Division
Department of Resources Recycling and Recovery

Memorandum of Understanding
Ventura County Regional SB 1383 Food Recovery Plan

This Memorandum of Understanding (“MOU”) is entered into by and between Ventura County (“County”) and the cities of Ventura, Oxnard, Moorpark, Simi Valley, Camarillo, Santa Paula, Fillmore, Ojai, Thousand Oaks, and Port Hueneme (hereinafter collectively referred to as “Cooperating Cities”) for the development and implementation of the Ventura County Regional SB 1383 Food Recovery Plan (FRP).

RECITALS

WHEREAS, in May of 2022, the Integrated Waste Management Division (IWMD) of the County of Ventura Public Works proposed to create a county-wide steering committee to oversee the development of a regional edible food recovery network to meet the compliance mandates of California Senate Bill 1383 (SB 1383); and

WHEREAS, following the completion of the Ventura County Edible Food Recovery Capacity Study, a state-mandated study prepared by Abound Food Care, which included collaboration with all ten (10) cities, special districts and non-profits within Ventura County to refine the needs of our region to maximize edible food recovery, the needs assessment survey was distributed to all cities; and

WHEREAS, the survey included questions relating to edible food recovery needs of the jurisdiction, interest in a regional food program, preferred method of funding a regional program, and interest in participating on an action-oriented steering committee; and

WHEREAS, the survey results indicated that there was strong interest in forming a regional steering committee and in participating in a regional food recovery program; and

WHEREAS, the first steering committee meeting for the Ventura County Edible Food Recovery Program (VCEFRP) was held in June 2022. Jurisdictions participating in this first steering committee included representatives from the cities of Ventura, Oxnard, Moorpark, Simi Valley, Camarillo, Santa Paula, Fillmore, Ojai, and the County; and

WHEREAS, moving forward, VCEFRP efforts will be coordinated and directed by a Steering Committee comprised of members from the County and the Cooperating Cities, which will also oversee a contracted Food Recovery Program Administrator. Collectively, the steering committee, participating jurisdictions, and the Food Recovery Program Administrator will be referred to as VCEFRP;

NOW, THEREFORE, in consideration of the mutual desire for the development of a regional FRP as set forth in the above recitals, the County and the Cooperating Cities do hereby mutually agree to cooperate in the development of a regional FRP known as VCEFRP, as defined above, pursuant to the following terms and conditions:

TERMS AND CONDITIONS

1. Purpose

The purpose of this MOU is to delineate the parties' cooperative efforts in respect to the VCEFRP. The goal of the VCEFRP is to cooperate in maintaining a network, assist with tasks related to food recovery organizations and services, and provide tools to jurisdictions to have a cohesive food recovery program throughout Ventura County as a whole.

Food recovery programs include participants from the non-profit, commercial, and local government sectors. VCEFRP is focused on assisting non-profit and local government partners. The goal of VCEFRP is to identify cooperative efforts, create tools, and resources for a cohesive network that supports current operations at local non-profits and facilitate their growth. Food recovery compliance is dependent on current food recovery initiatives, and VCEFRP aims to ease and expedite the work of non-profits in our network.

Additionally, through this network, VCEFRP can create and distribute uniform outreach and recordkeeping tools that streamline reporting and data collection needed for SB 1383 compliance. Standardized documents also help others recognize our network and build familiarity. Consistency can help commercial businesses and non-profits operating beyond jurisdictional boundaries.

2. County's Responsibilities

- A. The County intends to retain the services of a Food Recovery Administrator ("Administrator") by issuing a Request for Proposals (RFP). The scope of work for the Administrator is set forth in Attachment A. This scope of work may be altered by the County at any time.
- B. The County will ask the VCREFP Steering Committee to review and provide comment on the RFP for the Administrator. The RFP is expected to go to bid in early 2023 and awarded by the summer of 2023.
- C. The County will strive to identify additional opportunities to combine resources to reach food recovery goals.

3. Cooperating Cities' Responsibilities

- A. Cooperating Cities will cooperate in VCEFRP and agree to complete the tasks in Attachment B to contribute to the inter-jurisdictional network.
- B. The Cooperating Cities will strive to identify additional opportunities to combine resources to reach food recovery goals.

4. Joint County and Cooperating Cities' Responsibilities

The Cooperating Cities and the County, acting through the VCEFRP Steering Committee, will meet with the Food Recovery Program Administrator monthly to monitor progress and SB 1383 compliance.

5. Financial Considerations and Payment Terms

Subject to funding availability, the County intends to retain the Administrator for at least the first year of the VCEFRP. The County intends to fund this contract position from CIWMP fees, SB 1383 Local Assistance grants (as available), and any individual jurisdiction contributions. Some outreach deliverables identified in Attachment “A” may be available to jurisdictions at an additional cost, if total program costs are not covered under the first two funding options. The parties to this MOU will work cooperatively to identify funding sources to continue to fund the Administrator position beyond the first year.

6. Limitations

This MOU does not include generator outreach, enforcement, or reporting for individual jurisdictions. The VCEFRP will not complete further data collection outside of what is provided by the recordkeeping tools. However, the VCEFRP does include tools to assist in these areas.

It is each jurisdiction’s responsibility to contact generators, food recovery organizations, and/or services if further data collection is needed to complete their respective reporting requirements. VCEFRP will not attempt to gather an individual jurisdiction’s data if the jurisdiction does not utilize the tools provided by VCEFRP.

The VCEFRP also recognizes there are current reporting partnerships with the County of Ventura’s IWMD and some cities. VCEFRP will not attempt to collect food recovery data for these cities. Cooperating Cities will be required to send any data to VCEFRP for reporting that is not readily available from the food recovery tools.

This MOU is limited to the tasks in Attachment A. Any other food recovery tasks must be completed by individual jurisdictions.

7. Records

All parties to this MOU agree to retain any documents generated pursuant to the terms of this MOU for at least the minimum statutory period and to make the records available to the other parties to this MOU upon request within 30 days of the request.

8. Indemnity, Duty to Defend, and Hold Harmless

Each party to this MOU and its agents, employees, and contractors shall act in an independent capacity and not as officers, employees, or agents of any other party. As between parties to this MOU, the parties agree to hold each other harmless for activities arising from this MOU, including the acts of the Administrator. As to third-party liability, no party assumes any liability for the activities of another in the performance of this MOU, and each party (i) is responsible in proportion to its respective fault for all liability, including but not limited to personal injury or property damage that may arise out of this MOU and, (ii) specifically repudiates the division of liability otherwise provided for in Chapter 21 of Part 2 of Division 3.6 of Title 1 of the Government Code, entitled "Tort Liability under Agreements between Public Entities," section 895 et seq., to the extent applicable. To the fullest extent allowed by law, each party expressly agrees to defend, indemnify, and hold harmless the other parties and their directors, supervisors, council members, officers, consultants, contractors, agents and employees from and against any and all third-party loss, liability, expense, claims, suits, and damages, to the extent arising out of or resulting from the negligent acts, errors or omissions, or the intentional or willful misconduct of the indemnifying party, its associates, employees, consultants, contractors, sub-consultants, or other agents, including the Administrator, in the operation of and/or performance of this MOU. This provision will survive the expiration or termination of this MOU.

9. Term

The effective date of this MOU shall be the date that it is executed by the County and at least one Cooperating City. The MOU shall begin on the effective date and continue for two years unless terminated earlier as set forth herein. The VCEFRP will be reassessed after one and a half years.

10. Counterparts

This MOU may be executed in any number of counterparts, each of which shall for all purposes be deemed to be an original and all of which shall together constitute one instrument.

11. Notices

All notices, requests, demands, or other communications under this MOU shall be in writing. Notices shall be given for all purposes by one of the following methods:

Personal Delivery: When personally delivered to the recipient, notices are effective on delivery.

Certified Mail: When mailed certified mail, return receipt requested, notice is effective on the date the receipt is signed by the recipient, if delivery is confirmed by a return receipt.

Overnight Delivery: When delivered by overnight delivery, with charges prepaid or charged to a sender's account, notice is effective on delivery, if delivery is confirmed by the delivery service.

Email or Facsimile Transmission: When sent by email or facsimile to the recipient's last email or facsimile number known to the party giving notice, notice is effective on receipt, provided that: a) a duplicate copy of the notice is promptly given by certified mail or by overnight delivery, or b) the receiving party delivers a written confirmation of receipt. Any notice given by email or facsimile shall be deemed received on the next business day if it is received after 5:00 PM (recipient's time) or on a non-business day.

All communications and notices required by or given pursuant to this MOU shall be provided as follows:

To the County:

Joseph Pope, Director
Water & Sanitation
Public Works Agency
6767 Spring Road/P.O. Box 250
Moorpark, CA 93020
joseph.pope@ventura.org

With Copy to:

County Counsel
Attention: Assistant County Counsel Brick
800 South Victoria Avenue, L#1830
Ventura, California 93009

Notices to the Cooperating Cities shall be sufficient if delivered to the Clerk of the Cooperating City, or other person specifically noted in the Cooperating City's signature block, as may be updated with written notice to all parties.

Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be deemed effective as of the first date that said notice was refused, unclaimed, or deemed undeliverable by the postal authorities, messenger, or overnight delivery service.

Any party may change its address or email or facsimile number by giving the other parties notice of the change in any manner permitted by this MOU.

12. Termination

Any party to this MOU, upon 30 days written notice to all other parties, may terminate its participation in this MOU. Upon a party's termination, all obligations and benefits under this agreement cease as to the terminating party except for the duty to defend, hold harmless, and indemnify as set forth herein.

13. Severability

If a court of competent jurisdiction holds any provision of this MOU to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected, unless an essential purpose of this MOU would be defeated by the loss of the illegal, unenforceable, or invalid provision.

14. Entire Agreement and Amendments

This MOU, including any and all attachments, exhibits, and any other documents specifically incorporated into this MOU, shall constitute the entire agreement between the parties hereto relating to the subject matter of this MOU. As used herein, the MOU refers to and includes any documents incorporated herein by reference and any exhibits or attachments. The MOU may not be modified except by a written amendment signed by all parties.

15. No Third-Party Rights

The parties do not intend to create rights in, or to grant remedies to, any third party as a beneficiary of this MOU. Nor do the parties intend to create any duty, covenant, obligation, or undertaking in any third party by entering into this MOU.

16. No Employment Relationship

The parties agree that their respective employees performing any services in connection with the VCEFRP and/or this MOU are not acting within the scope of any employment relationship with any other party to this MOU, will not receive any form of compensation or benefits from any other party, and will not be covered by any other party's workers compensation program if injured. Each party will defend, indemnify and hold harmless the other party from any claims made by that party's own employees arising out of services performed in connection with VCEFRP and/or this MOU.

IN WITNESS WHEREOF, the parties hereto have executed this MOU on the date signed.

County of Ventura

By: _____ Date _____

City of _____

By: _____ Date _____

Attachment A: VCEFR Tasks

1. Non-Profit Outreach to Priority Agencies – The Food Recovery Administrator will complete outreach to the food bank in Ventura County, Food Share, and the 62 pantries identified in the Ventura County Edible Food Capacity Study, which currently collect food*. The list is provided in Attachment C.
 - a. Details:
 - i. Contact each organization and provide outreach materials
 - ii. Record meeting information
 - iii. Assist with written agreement questions
 - iv. Provide training on record keeping software and answer software related questions
 - v. Provide jurisdictional contact information
 - b. Deliverables:
 - i. Creation of a database of non-profit information
 - ii. Onboarding of non-profits and sharing of tools
 - c. Resources Needed
 - i. Food Recovery Administrator staff time
 - ii. Printing costs

* If new food recovery agencies are added to the list of potential recipients, the Food Recovery Administrator will send a notification to the jurisdictions and they will be added to our shared recipient database. VCEFRP Food Recovery Administrator will not assist with recordkeeping training until they have a written agreement with one of our identified Tier 1 or Tier 2 generators. Jurisdiction shall

notify the Food Recovery Administrator if one of their generators has a written agreement with one of the non-profits not identified in Attachment C.

2. Aggregating and Updating Non-Profit Data - Food Recovery Administrator will maintain a list of non-profits that the jurisdictions can use to help their generators find food recovery recipients, and help those groups interested in receiving more food.

* Food Recovery Administrator will not be responsible for collecting data that was not uploaded into the recordkeeping system. Any missing data must be obtained by the respective jurisdiction.

- a. Details:

- i. VCEFRP Food Recovery Administrator will upload and maintain data from Ventura County Edible Food Recovery Capacity Study in FileMaker.
- ii. Data will be stored in FileMaker and in a shared database. Jurisdictions will also post this list on their websites as required by SB 1383
- iii. Database will be updated at least annually

- b. Deliverables:

- i. Public list of food recovery organizations and services potentially interested in collecting recovered food

- c. Resources Needed:

- i. Staff time
- ii. FileMaker software
- iii. Food Recovery Administrator staff time

3. Recordkeeping Software Adoption - FileMaker, or similar cloud-based platform which is accessible by all participating jurisdictions, will be used to collect data from jurisdictions, Tier 1 and Tier 2 commercial edible food generators, and recipients.

- a. Details:

- i. Recordkeeping software will be used for the following purposes:

1. For Generators:

- a. Uploading contact information
- b. Uploading written agreements
- c. Uploading donation amounts
- d. Uploading other required recordkeeping documents outlined in SB 1383
- e. Viewing pounds donated
- f. Viewing agencies donated to

2. For Recipients:

- a. Uploading contact information
- b. Uploading written agreement
- c. Uploading donation amount
- d. Uploading other required recordkeeping documents outlined in SB 1383
- e. Viewing pounds received
- f. Viewing donors

3. For Jurisdictions:

- a. Uploading outreach interactions

- b. Uploading documents
 - c. Viewing donation information from generators and recipients
 - d. Viewing recordkeeping information from generators and recipients
 - b. Deliverables:
 - i. Completion of recordkeeping and implementation database
 - c. Resources Needed:
 - 1. Staff time
 - 2. Recordkeeping software licenses
 - 3. Food Recovery Administrator staff time
- 4. Creating Outreach Materials – Food Recovery Administrator in coordination with the VCEFRP Steering Committee will create and update outreach materials for generators and non-profits.
 - a. Details:
 - i. Food Recovery Administrator in coordination with the VCEFRP Steering Committee will create the following outreach materials:
 - 1. Generator flyer
 - 2. Recipient flyer
 - 3. Local Education Agency materials
 - 4. Website content
 - 5. Tier 1 and Tier 2 notification letter template
 - ii. Under the direction of the VCEFRP Steering Committee, the Food Recovery Administrator will create and share any secondary outreach tools.
 - b. Deliverables:
 - i. Standardized outreach tools
 - c. Resources Needed
 - i. VCEFRP Steering Committee staff time
 - ii. Food Recovery Administrator time
- 5. Creating Written Agreement Template - Food Recovery Administrator will create a written agreement template to be used countywide except in cases where a corporate agreement is used.
 - a. Details:
 - i. Written agreement template will be created and distributed to jurisdictions and non-profits
 - ii. Jurisdictions will be responsible for their respective legal review of the template prior to use
 - b. Deliverables:
 - i. Written agreement template that can be used for SB 1383 compliance
 - c. Resources Needed:
 - i. Food Recovery Program Administrator staff time
- 6. General Network Upkeep - Coordination of unforeseen general tasks, including interactions with corporate leaders, communication between jurisdictions, scheduling site visits, etc. This task does not include extra generator outreach.
 - a. Details:
 - i. Food Recovery Administrator will continue to look for ways the network can grow

- ii. Food Recovery Administrator will also share relevant updates with jurisdictions from corporate partners
 - iii. Food Recovery Administrator will schedule meetings and tours with jurisdictions and local non-profits
 - iv. Food Recovery Administrator will provide monthly updates to Steering Committee
- b. Deliverables:
 - i. Network maintenance
- c. Resources Needed:
 - i. Food Recovery Administrator staff time
- 7. Food Recovery Administrator will develop a checklist to guide site visits for Tier 1 and Tier 2 Generators, including specific items depending on the generator type. **The cost of the Food Recovery Administrator site visits to Generators should be listed into two cost proposals: Either as 1) part of the total group cost or 2) as an individual, add-on cost to each jurisdiction.**
 - a. Details:
 - i. Food Recovery Administrator will develop a checklist to guide site visits for Tier 1 and Tier 2 Generators.
 - ii. Food Recovery Administrator will conduct one site visits per generator, and note those not in compliance
 - iii. Food Recovery Administrator will share information with VCEFRP Steering Committee
 - iv. VCEFRP Food Recovery Administrator will document in reporting software
 - b. Deliverables:
 - i. Site Visit Checklist for Tier 1 and Tier 2 Generators
 - ii. Site visits to generators
 - iii. Compliance checking and updates
 - c. Resources Needed:
 - i. Food Recovery Administrator time
- 8. Recommendations for VCEFRP Expansion – 5-year plan
 - a. Details:
 - i. Using lessons learned from this current engagement, identify specific pathways to increase participation by Tier 1 and 2 generators, broaden the coalition of stakeholders who can contribute to the regional program’s success and seek out opportunities for partnerships with neighboring counties.
 - ii. Identify resources (i.e., technology, staffing, and materials) needed to execute the proposed 5-year plan.
 - b. Deliverables Needed:
 - i. Presentation to the VCEFRP Steering Committee
 - ii. Written Report -Final Report will include feedback from the VCEFRP Steering Committee

9. Management - General management of staff time, work procedures, and SB 1383 implementation related to this scope.
 - a. Details:
 - i. Reviewing work products, attending meetings, assistance in decision making and general guidance
 - b. Deliverables:
 - i. Thoroughly reviewed food recovery program materials
 - ii. General guidance
 - c. Resources Needed:
 - i. VCEFRP Steering Committee staff time
 - ii. Food Recovery Administrator staff time

Attachment B: Jurisdiction Tasks

Items highlighted in yellow are a requirement of SB 1383.

Task	Details	Recommended Next Steps
Tier 1 and Tier 2 Generator Outreach	Jurisdictions will need to train generators on recordkeeping software.	Send letters to all generators ASAP. Use templates and include flyers.
	Each jurisdiction will need to educate their generators about SB 1383 regulations. Jurisdiction may already be doing outreach for food scraps.	Add food recovery conversation to all current outreach being done.
	Jurisdictions will need to solidify their Tier 1/2 lists. Remove any generators that are not fitting or were maybe wrongly identified. <i>Abound Food Care identified Tier 1 and Tier 2 generators countywide as part of the Ventura County Edible Food Recovery Capacity Study in May 2022.</i>	Go through every generator and note if they are a Tier 1 or 2, and if they are a priority. Jurisdictions need to exercise their own discretion regarding these businesses.
Capacity Planning	Complete the Ventura County Edible Food Recovery Capacity Study. <i>Completed May 2022.</i>	<i>Completed by IWMD in July 2022.</i>
	<i>Abound Food Care identified non-profit capacity in May 2022. This will need to be revisited periodically.</i>	
Individual reporting	All jurisdictions will be responsible for their own reporting.	Reporting data should be collected by July 1 each year.
	Jurisdictions will need to collect records from their donors.	Jurisdictions should include this in their education for generators.
Compliance enforcement	Jurisdictions will be responsible for compliance enforcement and making sure all food recovery compliance measures are met outside of this proposal.	Jurisdiction will use this information to aid in enforcement.
Website Updates	Under SB 1383 each jurisdiction is required to keep an updated list of food donor recipients, guidelines for generators, etc. This	SB 1383 information has already been posted on LessIsMore.org. Jurisdictions can use that text.

	must be posted online.	
Assistance with outreach to Local Education Agencies	There are various other standards that schools must comply with, so help with SB 1383 compliance should be added to this. Again, outreach materials for schools will be included in outreach material created by the VCEFRP Steering Committee. SB 1383 also requires yearly educational campaigns that each jurisdiction must do. Outreach materials will be shared between jurisdictions.	Continue outreach that is already being done in schools. Add outreach for SB 13
Assistance with outreach to Non-Local Entities	Teamwork will be needed to figure out the landscape of non-local entities. Jurisdictions may be requested to help if needed.	
Mandatory participation in Food Recovery Meetings	Participate in meetings, keep communication open with VCEFR Steering Committee, be available for meetings with food recovery organizations, and have open communication with non-profits.	
Sharing Resources with Food Recovery Group	Resources like StoryMaps, staff time, knowledge sharing, etc. should be shared amongst jurisdictions, as needed.	



CITY OF OXNARD
PUBLIC WORKS DEPARTMENT
ENVIRONMENTAL RESOURCES DIVISION
111 S. Del Norte Blvd., Oxnard, CA 93030
(805) 385-8060

NOTICE OF VIOLATION		1st	2nd	3rd
Date:	Account #:			
Account Holder Name:				
Location of Violation:				
TO THE RESPONSIBLE PARTY: THE CITY OF OXNARD has determined there are violations of the Oxnard City Code, Chapter 19, Article II, Division 2, Section 19-160, at the property listed above. If the responsible party fails to take corrective action as described in this Notice below, continued violation(s) may be punished as an infraction or a misdemeanor pursuant to Oxnard City Code, Chapter 1, Article I, Section 1-10, and/or civil penalties may be imposed pursuant to Oxnard City Code, Chapter 7, Article III.				
Description of the Violation(s)				
☐ Ch. 19; Art. II; Sec. 19-160 (D)(1) Multi-Family generators shall comply with the following requirements: Shall subscribe to the City's two or three container collection services for all refuse (trash), recycling, and organic materials generated.				
☐ Ch. 19; Art. II; Sec. 19-160 (E)(1) Commercial Business generators shall comply with the following requirements: Shall subscribe to the City's two or three container collection services for all refuse (trash), recycling, and organic materials generated.				
CORRECTIVE ACTION REQUESTED: PLEASE SUBSCRIBE TO THE CITY'S THREE (3) CONTAINER COLLECTION SERVICE OR HAVE AN APPROVED WAIVER ON FILE WITHIN TWENTY (20) DAYS OF THIS NOTICE.				

PURSUANT TO OXNARD CITY CODE SECTION 19-162(D), THE ENVIRONMENTAL RESOURCES DIVISION STAFF HAS THE AUTHORITY TO BEGIN AUTOMATIC SERVICE TO RESOLVE THIS VIOLATION, IF THE VIOLATION IS NOT CORRECTED WITHIN TWENTY (20) DAYS OF THE THIRD VIOLATION NOTICE DATE. THE CITY RESERVES THE RIGHT TO TAKE ANY AND ALL ACTION, INCLUDING BUT NOT LIMITED TO ABATEMENT OF THE VIOLATION, ISSUANCE OF CITATIONS, AND ANY OTHER NECESSARY LEGAL ACTION. RESPONSIBLE PARTY SHALL BE RESPONSIBLE FOR ANY ABATEMENT COSTS INCURRED BY THE CITY.

Notice issued by: _____ Title: _____

Signature: _____ Date: _____

Notice received by: _____ Title: _____

Signature of Person Receiving Notice: _____ Date: _____

Signing this notification acknowledges receipt and is not an admission of guilt.

State of California's Corrective Action Plan for the City of Oxnard's Solid Waste Operations

Public Works and Transportation Committee

April 11, 2023

Robert Serrato

Recycling Manager

RECOMMENDATION

That the Public Works and Transportation Committee recommend that the City Council receive and file the State of California Senate Bill 619 Corrective Action Plan (CAP) for the City of Oxnard's Solid Waste Operations.

Background

- State of California Senate Bill 1383 (SB 1383), the Short Lived Climate Pollutants law, requires jurisdictions to increase diversion of organic waste from landfills
- Statewide target to divert organic landfill disposal by 75% in 2025
- The Goal of SB 1383 is to reduce methane emissions from landfills and address food insecurity in California
- SB 1383 took effect on January 1, 2022 and required compliance with a majority of its provisions by that date

BACKGROUND

- The City and many other jurisdictions have struggled to comply with SB 1383's deadlines due to:
 - Lack of existing local infrastructure to process organic waste
 - Supply chain disruptions by Covid 19 Pandemic
 - Staffing shortages
 - Unfunded State mandate

BACKGROUND

- State of California Senate Bill 619 (SB 619) was passed to provide jurisdictions with relief from penalties for not complying with SB 1383 requirements by January 1, 2022
- SB 619 allowed the City to submit a Notice of Intent to Comply (NOIC) to the California Department of Resources Recycling and Recovery (CalRecycle)
- The City Council passed Resolution No. 15,542 on March 1, 2022, allowing the submittal of a NOIC to CalRecycle proposing a timeline for execution of the provisions of SB 1383

DISCUSSION

- CalRecycle issued a draft Correction Action Plan (CAP) to the City in November 2022
- Environmental Resources staff and CalRecycle staff worked to finalize the CAP tasks and target completion dates
- CalRecycle issued a final CAP to the City on March 6, 2023, that outlines the tasks the City must complete in order to come into compliance with SB 1383
- City of Oxnard is one of 160 California cities that have been issued a CAP

DISCUSSION

- CalRecycle's CAP lists 30 tasks to be completed by March 1, 2024
- 9 tasks have been completed by the City and ER staff needs to provide verification to CalRecycle
- The remaining 21 need to be completed no later than March 1, 2024 or the City could be issued administrative civil penalties of \$500 to \$10,000 per violation per day
- In order to comply with the State mandates, ER staff will be reaching out in person and by mail through the United States Postal Service to commercial, industrial and residential customers to help bring them into compliance

DISCUSSION

Major challenges:

- Achieving compliance for residential, multi-family, and commercial waste generators for organic and non-organic recycling services
 - Despite numerous attempts to inform our customers, we have yet to reach the States mandated thresholds for organics and recycling services
- The following are highlights of the City's outreach efforts conducted to date:

DISCUSSION

Major challenges (Continued):

- Mailed four separate letters asking multi-family and commercial generators to sign-up for organic and non-organic recycling service or apply for a waiver if eligible
- After mailings, staff followed up with phone calls in 2020 and 2021
- Mail inserts to generators in their utility bills informing them of the new organic waste recycling mandates
- ER Staff has hosted over 25 information booths, passed out flyers and conducted presentations on SB 1383 at over 25 community events

Major challenges (Continued):

- ER Staff must conduct annual route reviews of all commercial and residential waste collection routes
- CalRecycle has calculated the City's annual organic waste product procurement target at 16,374 tons. City will have to identify additional organic waste product procurement opportunities to meet our procurement target.
- Recover 20 percent of edible food for human consumption that would otherwise be disposed of by 2025. The City will partner with the County of Ventura and participating cities to create and develop the Ventura County Regional SB 1383 Food Recovery Plan.

DISCUSSION

Major challenges (Continued):

In order to comply, ER staff will visit non-compliant multi-family and commercial generators and begin issuing Notice of Violations (NOV). The NOV process will work as follows:

- 1st NOV - allows 20 days to come into compliance by starting service or submitting proof of eligibility for a waiver
- 2nd NOV - if no action is taken, a second NOV will be issued and allow an additional 20 days to comply.
- 3rd NOV - if no action is taken, a third and final NOV will be issued allowing an additional 20 days to comply for a total of 60 days from the first NOV.

DISCUSSION

Major challenges (Continued):

- If no action is taken after the third NOV, per Section 19-162(D) of City Code, services necessary to comply with SB 1383 will be automatically provided by the City
- The new services will be reflected in the generator's utility bill. Costs will vary depending on the services required
- Failure to comply with SB 1383 by March 1, 2024, will result in the City being fined \$500 to \$10,000 per violation per day
- Additionally, CalRecycle has the authority to directly issue a NOV and penalties to a waste generator for failing to comply with the new State mandates

DISCUSSION

- Environmental Resources staff will continue to work to meet the requirements of SB 1383 by:
 - Providing outreach to residents and businesses
 - Conducting site visits to evaluate service level needs
 - Performing inspections of waste containers to minimize contamination of the organic waste stream
 - Issuing notice of violations to non-compliant waste generators

DISCUSSION

Unrelated to the CAP:

- Currently organics received at the Del Norte Recycling and Transfer Station (Del Norte) are going to Agromin in Santa Paula and Simi Valley
- City is exploring developing an organic waste processing facility with Colony Energy Partners at Del Norte
- If constructed, the facility will enable the City to reduce its costs of transportation and disposal of green and food waste currently collected by the City
- Recovered organic waste can be used as feedstock, in the production of renewable energy and as compost/fertilizer

FINANCIAL IMPACT

- There is no fiscal impact for the recommended action
- Any new services required by SB 1383 will be charged per the current rate model, when applicable
- To comply with all aspects of the State's mandate, the City will need to procure additional materials and equipment in compliance with SB 1383, which may result in additional funding requests in future recommended operating budgets

Questions?