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.

CITY OF OXNARD CALIFORNIA

AGENDA
OXNARD CITY COUNCIL
FINANCE AND GOVERNANCE COMMITTEE

Council Chambers, 305 West Third Street
June 27, 2023
Regular Meeting - 5:00 to 6:30 PM

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

1. Dial Phone Number: (888) 475-4499
2. Enter Meeting ID: 841 1420 1908
3. Passcode: 473647

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/**.

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

3. PROVIDING PUBLIC COMMENTS REMOTELY DURING THE MEETING

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)

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.

A. ROLL CALL, POSTING OF AGENDA, FLAG SALUTE

Consideration of Teleconference Participation pursuant to Assembly Bill 2449.

During this meeting, Councilmember Teran will be participating remotely from the following location: Hampton Inn & Suites Ontario Rancho Cucamonga (Business Center) located at 11669 Foothill Blvd., Rancho Cucamonga, CA 91730.

B. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

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

C. CONSENT AGENDA

1. City Clerk Department
SUBJECT: Approval of Minutes.
RECOMMENDATION: That the Finance & Governance Committee approve the minutes of the June 13, 2023 regular meeting as presented.
Contact: Rose Chaparro, (805) 385-7805

D. REPORTS

1. Finance Department
SUBJECT: Agreement with ProcureAmerica to Provide Cost Reduction Services.
RECOMMENDATION: That the Finance and Governance Committee recommend to the City Council that they approve and authorize the Mayor to enter into an agreement with ProcureAmerica, Inc. to provide cost reduction consulting services expiring December 31, 2028.

Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/J95D7b6WtxY
Contact: Mark Sewell, 805-385-7851

2. Finance Department
SUBJECT: Professional Services Agreement 32400016 with MuniServices, LLC for Sales Tax and Transaction Tax Audit Services. (10 minutes)
RECOMMENDATION: That the Finance and Governance Committee recommend that the City Council:

a) Award Agreement No. 32400016 to MuniServices, LLC for a five-year term in the amount not to exceed $600,000 for quarterly Sales Tax Audit Services and Measures O and E transaction tax audit services; and

b) Adopt a Resolution Authorizing Examination of Sales, Transactions and Use Tax Records to MuniServices, LLC.

Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/ojkRdvVjiFk
Contact: Mark Sewell, 805-385-7851

3. City Manager Department
SUBJECT: Second Amendment to Agreement No. 9675-22-CM with Aten Design Group, Inc. for Website Redesign Services (10 minutes)
RECOMMENDATION: That the Finance and Governance Committee recommend that City Council approve and authorize the execution of a Second Amendment to an Agreement with Aten Design Group, Inc. to increase Website Redesign Services for an additional $116,140, resulting in a not-to-exceed total cost of $316,140.

Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/c05GfYX18CM
Contact: Alexander Nguyen, (805) 385-7430

4. City Manager Department
SUBJECT: Whistleblower Activity Report. (10 Minutes)
RECOMMENDATION: That the Finance and Governance Committee receive and file an update on the whistleblower matters.

Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/EJauyVp5m6s
Contact: Shiri Klima, (805) 385-7487

E. ITEMS FOR FUTURE AGENDAS

F. ADJOURNMENT

FINANCE AND GOVERNANCE COMMITTEE
AGENDA REPORT

CONSENT AGENDA
AGENDA ITEM NO. C.1

DATE: June 27, 2023

TO: Finance & Governance Committee

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

SUBJECT: Approval of Minutes.

RECOMMENDATION

That the Finance & Governance Committee approve the minutes of the June 13, 2023 regular meeting as presented.

BACKGROUND

Approval of Minutes.

STRATEGIC PRIORITIES

This agenda item is a routine operational item.

FINANCIAL IMPACT

There is no financial impact.

Prepared by: Rose Chaparro, City Clerk

ATTACHMENTS

1. MINUTES 06 13 2023 Finance & Governance

MINUTES
OXNARD CITY COUNCIL
FINANCE AND GOVERNANCE COMMITTEE
Regular Meeting
June 13, 2023

A. ROLL CALL, POSTING OF AGENDA, FLAG SALUTE

At 5:01 p.m., Chair John C. Zaragoza called to order the regular meeting of the Oxnard City Council Finance and Governance Committee in the City Hall Council Chambers at 305 W. Third Street, Oxnard, California. The Assistant City Clerk called the roll and announced the posting of the agenda. Chair John C. Zaragoza, Member Gabriela Basua, and Member Gabriel (Gabe) Teran were present in person.

Staff members present in person were Alexander Nguyen, City Manager; Stephen M. Fischer, City Attorney; Shiri Klima, Deputy City Manager; Lisa Baker, Assistant Human Resources Director; Michael Wolfe, Public Works Director; Brian Yanez, Assistant Public Works Director; Steve Howlett, Assistant Public Works Director; Gary Krumian, IT Programmer Analyst; Adam Smith, Project Manager; Eric Zetz, Environmental Resources Manager; and Dee Lai, Assistant City Clerk.

Consideration of Teleconference Participation pursuant to Assembly Bill 2449.

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

C. CONSENT AGENDA

1. City Clerk Department
SUBJECT: Approval of Minutes.
RECOMMENDATION: That the Finance & Governance Committee approve the minutes of the May 23, 2023 regular meeting as presented.

It was moved by Member Teran, seconded by Member Basua, to approve the Information/Consent item as presented. VOTE: Basua, Teran, and Zaragoza voted in favor; the motion carried 3-0.

D. REPORTS

1. Human Resources Department
SUBJECT: Third Amendment to Agreement for Recruitment Services with Gallagher Benefit Services, Inc.
RECOMMENDATION: That the Finance and Governance Committee recommend that the City Council approve and authorize the Mayor to execute a Third Amendment to Agreement No. 9338-21-HR with Gallagher Benefit Services, Inc. for recruitment

DRAFT

services to extend the term to September 30, 2025, and increase the total amount by $155,000 to $355,000.

Lisa Baker, Assistant Human Resources Director presented and answered the Committee's questions. No public comments were received. Discussion ensued among the Committee and staff.

It was moved by Member Teran, seconded by Member Basua, to approve the recommended action as presented. VOTE: Basua, Teran, and Zaragoza voted in favor; the motion carried 3-0.

2. Information Technology Department
SUBJECT: Third Amendment to Agreement A-8011 with Superion LLC, a CentralSquare Company, for Information Technology Software and Services.
RECOMMENDATION: That the Finance and Governance Committee recommend that City Council approve and authorize the Mayor to execute a Third Amendment to Software License Agreement A-8011 with Superion LLC, a CentralSquare Company, in the amount of $612,476 for FY23-24 with a new not-to-exceed total agreement amount of $2,070,981 for information technology software and services.

Gary Krumian, IT Programmer Analyst presented and was available to answer the Committee's questions. No public comments were received. Discussion ensued among the Committee and staff.

It was moved by Member Basua, seconded by Member Teran, to approve the recommended action as presented. VOTE: Basua, Teran, and Zaragoza voted in favor; the motion carried 3-0.

3. Public Works Department
SUBJECT: Fiscal Year 2023-24 Utility Ratepayers Assistance Program (Project Assist) Update.
RECOMMENDATION: That the Finance and Governance Committee recommend that the City Council:

1. Adopt a resolution for the Utility Ratepayers Assistance Program (Project Assist) for Fiscal Year 2023-24 to assist eligible Oxnard residents and authorize staff to grant financial relief equal to a monthly $25.00 maximum credit per utility bill charged to residential customers who meet the eligibility requirements discussed in this staff report up to the amount funded for Fiscal Year 2023-24; and

2. Authorize staff to fund Project Assist in Fiscal Year 2023-24 by utilizing $241,500 that has been paid to the City for late penalties charged to City utility customers.

Brian Yanez, Assistant Public Works Director presented and answered the Committee's

questions. No public comments were received. Discussion ensued among the Committee and staff.

It was moved by Chair Zaragoza, seconded by Member Basua, to approve the recommended action as presented. VOTE: Basua, Teran, and Zaragoza voted in favor; the motion carried 3-0.

4. Public Works Department
SUBJECT: Audit Services with Eadie & Payne, LLP for the City's Golf Operations Audit.
RECOMMENDATION: That the Finance and Governance Committee recommend that the City Council approve an amount not to exceed $20,000 for Eadie & Payne, LLP to perform an audit of the City's golf operations.

Steve Howlett, Assistant Public Works Director presented and answered the Committee's questions. No public comments were received. Discussion ensued among the Committee and staff.

It was moved by Member Basua, seconded by Member Teran, to approve the recommended action as presented. VOTE: Basua, Teran, and Zaragoza voted in favor; the motion carried 3-0.

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

F. ADJOURNMENT
There being no further business on the agenda, and without objection, Chair Zaragoza adjourned the meeting at 5:25 p.m.

ROSE CHAPARRO
City Clerk

JOHN C. ZARAGOZA
Chair

FINANCE AND GOVERNANCE COMMITTEE
AGENDA REPORT

REPORTS
AGENDA ITEM NO. D.1

DATE: June 27, 2023

TO: Finance & Governance Committee

FROM: Mark Sewell, Assistant Chief Financial Officer, 805-385-7851, Mark.Sewell@oxnard.org

SUBJECT: Agreement with ProcureAmerica to Provide Cost Reduction Services.

RECOMMENDATION

That the Finance and Governance Committee recommend to the City Council that they approve and authorize the Mayor to enter into an agreement with ProcureAmerica, Inc. to provide cost reduction consulting services expiring December 31, 2028.

Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/J95D7b6WtxY

BACKGROUND

ProcureAmerica assists businesses and governments in reducing utility costs through expert analysis of utility rate schedules. ProcureAmerica provides the City of Oxnard (City) with a no obligation or cost offer to survey utility tariff rates for our gas and electricity accounts in order to identify cost reduction opportunities and overall expense transparency. Furthermore, ProcureAmerica has specific expertise in other areas of expenditure across the City including telecommunications, trash and waste, shipping and logistics and document management. Staff contacted other cities and counties where ProcureAmerica had performed utility analysis, and based on its success, decided to request Council's authorization to move forward.

In order to achieve any utility savings, ProcureAmerica will need to review and implement applicable California Public Utilities Commissions (CPUC) decisions and rate structures with Southern California Edison (SCE) identified in the Utilities Savings Review. ProcureAmerica's utility Tariff Rate Optimization Study (TROS®) includes analysis of the City's electric, natural gas, and solar accounts. ProcureAmerica's Utility Division is unique and highly specialized as the work focuses primarily on a legal review of tariff rates and tax structures. Its firm does not operate within the utility conservation space (behavioral, technology, operations) and concentrates solely on TROS® analysis where they conduct a forensic legal review of the CPUC rulings, interpretations and regulations, as it applies to commercial and governmental tariff rate assignments. Further, its firm has deep experience in municipal tax code applications and apply this expertise to our North American Industry Classification (NAICS) designations in search of exemptions and cost mitigation opportunities.

This negotiation process with SCE requires industry expertise, which staff does not have, to achieve maximum savings. ProcureAmerica has a proven track record for success serving local governments with hundreds of thousands of dollars in savings identified and received. Clients such as the City of Dana Point, City of San Clemente, the City of Irvine, and the County of Orange have all received benefits from ProcureAmerica's services.

Scope of Services

ProcureAmerica will perform an analysis of all current costs and rates for the areas identified above, and present a list of potential savings to City staff. Following this initial analysis the City will make the necessary determination as to whether to proceed with the recommendations and realize any savings identified. Given the nature of this agreement, the exact savings (and therefore cost) is unknown until the analysis is completed. The terms of the agreement state that ProcureAmerica will assist the City to identify, and then negotiate more favorable rates resulting in reduced costs to the City, for which they would be compensated at 30% of the resulting savings for a period not to exceed five years.

ProcureAmerica will commence its analysis with a review of the costs paid by the City for utility services, and progress through the other areas of expenditure such as telecommunications etc. in coordination with key departmental staff responsible for the management of those costs. In the unlikely event that the initial analysis fails to identify any opportunities to save the City money, staff would recommend no further action from the City, or ProcureAmerica resulting in no cost to the City.

In 2020, ProcureAmerica negotiated a contract with the County of Orange including "piggyback" provisions that enable the City to enter into an agreement with the same scope and terms for the same compensation, in compliance with the City's Purchasing Policies. The contract with the County of Orange was the result of a competitive request for proposal process, and the contract is still in operation between those two parties.

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 financial impact is unknown at this time. The City is not required to provide any upfront payment to ProcureAmerica. Should the initial evaluation identify savings, and staff determine it in the best interest of the City to negotiate new rates, any benefits will be credited to the fund(s) in which they relate, in the fiscal year that they are realized, along with the pro rata share of the project costs incurred to realize those savings. This will ensure that each separate fund receives its appropriate and equitable share of the benefits and costs related to this agreement. ProcureAmerica's fee will amount to 30% of the savings calculated for the City. If savings are identified, the remaining 70% would return to the City's reserves. After the initial contract term, 100% of the savings will be retained by the City.

Prepared by: Mark Sewell, Assistant Chief Financial Officer

ATTACHMENTS

1. ProcureAmerica Agreement 32400009
2. ProcureAmerica Agreement Presentation

Agreement No.
32400009

AGREEMENT FOR PROFESSIONAL SERVICES
COVER PAGE

(1) Agreement Start Date: July 18, 2023

(2) Consultant: ProcureAmerica, Inc.

(3) Services: Cost Recovery and Reduction Services

(4) Schedule of Services: See Schedule of Services Exhibit, which is attached hereto and incorporated herein.

(5) Agreement Ending Date: Dec 31, 2028

(6) Total Agreement Amount: TBD - 30% of actual cost recovered for sixty (60) consecutive months

(7) City's Project Manager: Assistant Chief Financial Officer

(8) Consultant's Project Manager: Todd Main, Vice President

(9) Insurance Coverage: INS-A

(10) Addresses for Notice:

FOR CONSULTANT:

Todd Main
ProcureAmerica, Inc.
31103 Rancho Viejo Rd., #D2102
San Juan Capistrano, CA 92675

FOR CITY:

Mark Sewell, ACFO
300 W Third Street
Oxnard, CA, 93030

(11) Contact Emails:

T.Main@ProcureAmerica.org

Mark.Sewell@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:

☐ Schedule of Services Exhibit
☐ Rates and Costs Exhibit
☐ Insurance Exhibit (INS-)

Agreement No. 32400009

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 after Consultant has identified or recovered a cost savings opportunity for the City,by the end of each calendar month or quarter, listing the Services provided, costs of those Services and total amount due for the month. Each invoice must also list the current savings or cost recovery balance for the City under the Agreement,, as well as the months remaining on the term of the Agreement. Invoices may be emailed to the City. City shall take all reasonable steps to ensure payment is made within 30 days from the date of approved invoice.

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 as may be needed to perform or complete the items identified in the Scope of Work identified herein as Exhibit A. The City's Project Manager must authorize all such

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

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

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. 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.

b. City of Oxnard agrees to hold harmless County of Orange from all claims, demands actions or causes of actions of every kind resulting directly or indirectly, arising out of,or in connection with the use of Contract RCA-017-190110018 between County of Orange and Procure America. Contract RCA-017-190110018 was result of RFP, is current, and includes the same scope of work as this agreement, and as such has been utilized as a Cooperative Agreement.

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 Indemnitees from and against all Claims arising from or relating to any unauthorized assignment.

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

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

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

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

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

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

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

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

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

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

35. Notice. Except as otherwise required by law, a notice or communication authorized or required by this Agreement shall be in writing and shall be deemed received—on (a) the day of delivery if delivered by hand or overnight courier service during City's regular business hours or (b) the third business day following deposit in the United States mail, postage prepaid—to the addresses listed as "(10) Addresses for Notice" on the Cover Page or at such other address as one party may notify the other in writing.

36. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall be deemed to be one and the same agreement. A signed copy of this Agreement transmitted by email to Project Managers' emails listed in "(11) Contact Emails" on the Cover Page or by other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement for all purposes.

37. Severability. If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

[Signatures on next page]

EXHIBIT A
SCOPE OF SERVICES

I. Introduction:

Contractor shall provide City with two separate program options (Basic and Basic Plus- ESP) for Cost Recovery and Expenses Reduction Services under this Scope of Work for obtaining cost savings/refunds through audits and assessments relating to billing invoices and taxes. Contractor shall review, audit and implement applicable billing rates amongst all City accounts in an effort to provide Cost Recovery and Reduction Services.

In an effort to reduce current billing costs and ensure all rates are secured and correct amongst service providers, Contractor will provide to the City expertise in billing audits with the primary goal of cost reduction. Contractor will review and audit in depth City accounts to recover overpayment and correct billing rates, calculation methods and tariffs including taxes.

The City has multiple contracts with service providers for supply of the following:

- Utilities
- Telecommunications
- Waste and Recycling
- Document Management
- Treasury Services
- Shipping and Logistics

II. Program Options:

A. Basic Program - Bill Audit (Contract and Invoice compliance review):
   1. In this service, Contractor shall conduct a review of the target expense category's supplier contract with the City to outline the cost structure, terms and conditions.
   2. Contractor would then deliver a report back to City with their findings and subsequent recovery plan
   3. In the event that Contractor identifies billing or contract errors, Contractor would work with the City and the supplier to rectify the discrepancy and settle the account accordingly.

B. Basic Plus Program -ESPL Enterprise Strategic Plan (ESP)
   1. This program includes all the services outlined in the "Basic Program and the creation of a custom strategic sourcing program that is designed to support he City's short, medium and long term goals as it pertains to the subject expense categories.

      a. The specific areas of focus in the ESP are:
         i. Service Level Management
         ii. Complete service and /or equipment inventory
         iii. Expense Transparency
         iv. Vendor Administration
         v. RFP and/or solicitation support
         vi. Net Cost Reduction
         vii. Implementation of ESP
         viii. Manage institutional change migration

b. ESP report would outline the go forward strategic plan, action steps, deliverable milestones and program outcomes.

III. General Contractor Requirements:

A. Upon City request, Contractor will conduct deep dive analysis (Basic and Basic Plus - ESP).

B. Contractor shall use its best efforts to obtain cost savings/refunds for City's benefit by analyzing City's policies, procedures, service provider contracts, past invoices and other pertinent information as it relates to the above selected expense categories set for review. (Basic and Basic Plus - ESP).

C. Contractor will further gather information as to the City's needs (past and present) from City's service providers, so as, to build a solution that not only lowers cost, but also matches City's operational requirement and expectations. (Basic Plus- ESP)

D. Contractor will provide progress reports throughout the audit review, designated deliverable dates will be determined based on review timeline. (Basic Plus- ESP)

E. After analyzing City current spending patterns, Contractor shall provide City with a strategic sourcing report outlining Contractor's observations and recommendations. Contractor's report will include a review of operations, cost reduction recommendations and potential service level enhancements. Contract will educate County designated staff on best practices related to applicable review. (Basic Plus-ESP).

F. The Contractor will review City's invoicing and deliverables to ensure accountability by City's service providers with respect to the spirit and intent of the Contract between the City and the third party service provider. The review will take into account service types, levels, cost controls and overall City satisfaction. (Basic and Basic Plus - ESP)

G. Contractor will continue ongoing services with City to anticipate changes in service needs to ensure that the proper service provider, contract and procedures are in place to address City's go forward requirements. (Basic Plus-ESP)

H. Contractor report will include a full catalog of all meters and accounts surveyed and will document the Established Rates for each service or product chosen for review and outline the methodology for Contractor's findings. City and Contractor will discuss, agree and document the Established Rates for the targeted service or product. (Basic Plus-ESP)

I. Contractor may discover over billing, credits, rebates, ongoing savings and/or other sources of revenue. This income is to be considered expense reduction for purposes of this Contract and will be accounted for in the same manner as the expense reduction savings. (Basic and Basic Plus - ESP)

J. Contractor may have the ability to recover rebates or other compensation by service providers. Contractor shall disclose this compensation to the City and both Parties shall share this revenue as savings, in accordance with Rates and Costs Exhibit, after revenue is received by the City. (Basic and Basic Plus - ESP)

K. It may be necessary to institute cost reductions strategies within a specific expense category in stages. If this occurs, and upon City approval, each stage of implementation will be viewed with its own billing cycle. (Basic Plus - ESP)

L. Contractor acknowledges that all information supplied by the City shall be kept confidential. Contractor, its subcontractors, employees, or agents shall not disclose such information to any third parties other than Contractor's subcontractors, employees or agents on a need-to-know basis for the purpose of Contract performance and to other third parties as required for providing services under this Contract. Contractor shall not use any information, documents, or data provided by County for any proprietary purposes and shall not copy,

sell, exchange, disclose, or provide to others, or use any information, documents, or data reasonably related to this Contract for its own proprietary interests. (Basic and Basic Plus - ESP)

M. Contractor shall perform all Cost Recovery and Reduction Services required under this Contract in conformity with professional standards, and shall provide qualified personnel (licenced, if applicable) to meet such standards. (Basic and Basic Plus - ESP)

N. Ownership of City Data - Contractor acknowledges and agrees that all information supplied by County to Contractor (hereinafter, "City Data") shall remain the property of City. The City Data shall not be used by Contractor other than in connection with providing the services pursuant to this Contract. City Data shall not be disclosed, sold, assigned, leased or otherwise provided to third parties by Contractor, or commercially exploited by or on behalf of Contractor, its employees, officers, agents ,subcontracts, invitees, orassigns in any respect. Contacto shall not delta or destroy any City Data or media on which City Data resides without prior written authorization of City. At no cost to City, Contractor shall, upon City request, promptly return to City, in the dormant and on the media in use as of the date of the request, any and all requested portion of any City Data it may possess or control as well as all work product including exploratory information. (Basic and Basic Plus - ESP)

O. It shall be Contractor's responsibility to ensure compatibility of City's data files and transmittal medium to Contractor's computer system. Contractor shall bear all costs, if necessary, for data conversion to make City's computer system compatible with that of Contractor;s and any incidental costs related to the data transfer. Contractor shall promptly inform the City of any problems and/or issues with any data conversion or transfer of City's data files. (Basic and Basic Plus - ESP)

P. Contractor is responsible for ensuring that all transmittals to City are compatible with City's ability to record and read such data. Any and all corrupted or otherwise defective data shall be replaced by Contractor at no cost, additional or otherwise, to City. (Basic and Basic Plus - ESP)

Q. During the review, Contractor shall notify the City of any compliance concerns with current and upcoming applicable laws related to provider services; this shall be part of the review. (Basic and Basic Plus - ESP)

R. During the term of this Contract, Contractor understands that despite Contractor(s) recommendations, suggestions, potential supplier and other recommendations; City has the right not to proceed with any or all said recommendations. (Basic and Basic Plus - ESP)

IV. City Requirements for Both Programs, Basic, and Basic Plus ESP

A. City shall provide all required documents, invoices, contracts and staff consultation time to Contractor in order to conduct the expense reduction review.

B. During the review process, City, to the best of its ability, will not renegotiate, amend or extend in place contracts or introduce operational procedures/changes that will affect cost/pricing and or contractual obligations of the City to the service provider.

C. Savings/Refund Verification Documentation:
Contractor will submit monthly, or at the City's discretion, verifiable documentation that the correction/retroactive refund/credit/recommendation has been accomplished and savings were implemented. A detailed explanation of savings will be present by Contractor to clarify and further corroborate the calculated savings. (Basic and Basic Plus - ESP)

Agreement No. _____

EXHIBIT B
RATES AND COSTS

I. Compensation: This is a usage Contract between City and Contractor to provide Cost Recovery and Reduction Services, as needed and as set forth in the Scope of Work Exhibit.

Contractor agrees to accept the specified compensation as set forth in this Contract as full remuneration for performing all services and furnishing all staffing, labor, vehicles, equipment, tools, materials, overhead, travel etc. required, for any reasonably unforeseen difficulties with mat arise or be encountered in the execution of the service until acceptance, for risks connected with the services, and for performance by Contractor of all its duties and obligations hereunder. **There will be no up-front fees** and Contractor shall only be compensated as set forth herein below for work performed in accordance with the Scope of Work. **City shall have no obligation to pay any sum in excess of the Fee specified herein below unless authorized by amendment in accordance with City Policies.**

II. Pricing: City will pay fees at the following percentage rate of cost savings/refunds, per audit review, after City approves and receives Contractor recommendations in accordance with the provisions of this Contract.

I.Cost Reduction and Recovery Service Fees*

A. Basic Program - Review Level (Bill Audit)
30 % of actual cost recovered each month, for twelve (12) consecutive months.

B. Basic Plus Program - Review Level (Enterprise Strategic Plan - ESP)
30 % if City elects to commission an Enterprise Strategic Plan (ESP) for the targeted expense category(s) for sixty (60) consecutive months.

*** Fees will be paid based on the cost savings/refunds identified by the Contractor and approved by the City**

III. Price Increases/Decreases: No price increases will be permitted during the term of this Contract. All price decreases will automatically be extended to the City.

IV. Firm Discount and Pricing Structure: Contractor guarantees that prices quoted are equal to or less than prices quoted to any other local, State or Federal government entity for services of equal or lesser scope. Contractor agrees that no price increases shall be passed along to the County during the term of this Contract not otherwise specified and provided for within this Contract.

V. Invoicing Instructions: Contractor shall submit invoices to City on Contractors letterhead. Each invoice shall have a unique number and shall include, at minimum, the following information;

A. Contractor's name and address (as specified in this Contract)

B. Contractor's remittance address, if different from section V "A" above.
C. Name of City department/contact person
D. Contract Number must be referenced on all invoices
E. Delivery/service address
F. Service Date
G. Contractor's Tax Identification Number (TIN) of Employer's Identification Number (EIN)
H. Description of Services
I. Total dollar amount of invoice

The responsibility for providing an acceptable invoice to the City for payment rests with the Contractor. Incomplete or incorrect invoices are not acceptable and Contractor will be required to revise them. The City's project manager, or designee, is responsible for approval of invoice and subsequent submittal of invoice to the Finance Department for processing of payment.

INSURANCE EXHIBIT

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 will be requested via email. If you have not received your request or are having difficulty with the 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.

12/22

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

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

Endorsement Forms

Original endorsements are required for commercial general liability and business automobile liability insurance policies and must be attached to the applicable certificate of insurance. City preference is that 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.

Agreement No._____

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

CITY OF OXNARD

_____ _____
John Zaragoza,[1] Date
Mayor

ATTEST:

_____ _____
Rose Chaparro, CITY Clerk Date
(only if Mayor authorizes)

APPROVED AS TO FORM:

_____ _____
Stephen M. Fischer, CITY Date
Attorney (always required

PROCUREAMERICA, INC.

Todd Main - Vice President 3/29/23
[2]Name and Title Date

Todd Main - Vice President 3/29/23
Name and Title 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.

Agreement with ProcureAmerica, Inc. to provide Cost Reduction Services.

Finance and Governance Committee Meeting

Mark Sewell, Assistant Chief Financial Officer
June 27, 2023

CITY OF OXNARD CALIFORNIA

RECOMMENDATION

That the Finance and Governance Committee recommend to City Council that they award Agreement number 32400009 to Procure America, Inc. for a five and a half year term to provide Cost Reduction Services for the City of Oxnard.

COST REDUCTION SERVICES

- ProcureAmerica, Inc. assist governmental agencies to reduce costs of various utilities, commodities and services through analysis of rate schedules and forensic reviews of City agreements for many areas of expenditure.
- This agreement enables PA to review the City's agreements with utility companies and other vendors in order to identify any areas of potential savings.
- Many of these agreements require specialized knowledge and legal review that the City does not currently have on staff.
- Any potential savings will be presented to Staff and the City determines whether to implement any recommended actions as proposed by PA.

- City utilizing the "piggyback" provisions included in a 2020 agreement with the County of Orange and Procure America, Inc.
- This agreement was the result of a competitive request for proposals (RFP) process to which PA were the selected vendor.
- Using "piggyback" provisions is an efficient and effective way to ensure best value, without the time and expense of running a full RFP process at the City.
- References from current clients are positive with some significant savings identified and being delivered as a result of the same services under consideration with this agreement with the City of Oxnard.

AREAS OF FOCUS

- Subject to the City's requests, PA will review the following areas of expenditure and identify potential savings. In addition PA will assist the City with any negotiations or changes necessary to realize those savings.
  - Utilities
  - Telecommunications
  - Waste and Recycling
  - Document Management
  - Shipping and Logistics
- PA will conduct an audit of invoices, and create a strategic plan of how the City can realize reduced costs through rates.
- PA clients include County of Orange and cities of Irvine, San Clemente and Dana Point.

COMPENSATION

- The agreement is a cost share agreement whereby PA receive 30% of all proven savings that they identify, and help the City realize.
- These savings are calculated on the price variance only.
  - Any saving purely due to reduced consumption, does not yield a payment to PA.
- PA will analyze cost categories based on City prioritization and make recommendations for savings.
- City can choose to accept or reject recommendations.
- Anticipated that most analysis will be complete by December 2023, and savings start to be realized in Fiscal Year 2023-24.

SAVINGS

- Staff will review all recommendations for cost reductions and track performance.
- Savings will be credited to the fund that incurs the reduced expenditure, along with its pro-rated share of the compensation to PA.
  - Each fund will receive 70% of the savings during the term of the agreement.
- 100% of savings made beyond the term of this agreement will belong to the City.

RECOMMENDATION

That the Finance and Governance Committee recommend to City Council that they award Agreement number 32400009 to Procure America, Inc. for a five and a half year term to provide Cost Reduction Services for the City of Oxnard.

CITY OF

OXNARD

CALIFORNIA

FINANCE AND GOVERNANCE COMMITTEE
AGENDA REPORT

REPORTS
AGENDA ITEM NO. D.2

DATE: June 27, 2023

TO: Finance & Governance Committee

FROM: Mark Sewell, Assistant Chief Financial Officer, 805-385-7851, Mark.Sewell@oxnard.org

SUBJECT: Professional Services Agreement 32400016 with MuniServices, LLC for Sales Tax and Transaction Tax Audit Services. (10 minutes)

RECOMMENDATION

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

a) Award Agreement No. 32400016 to MuniServices, LLC for a five-year term in the amount not to exceed $600,000 for quarterly Sales Tax Audit Services and Measures O and E transaction tax audit services; and

b) Adopt a Resolution Authorizing Examination of Sales, Transactions and Use Tax Records to MuniServices, LLC.

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

BACKGROUND

Sales and use tax auditing is common across municipalities in California to ensure each agency is receiving its appropriate share and allocation of tax proceeds. Often these audits result in additional remittances to the benefit of that agency. Furthermore, the firms that provide these types of services create information that is vital to the formulation of budgets and financial planning for tax revenues.

DISCUSSION

On January 30, 2017, the City entered into a contract with Hinderliter, de Llamas and Associates (HdL) for quarterly Sales Tax Audit Services. The contract (including subsequent amendments) will reach the contract threshold and expiration date on June 30, 2023. In anticipation of this, the Purchasing Division of the Finance Department issued a request for proposals (RFP) for sales tax auditing services on February 8, 2023.

The Purchasing Division posted the RFP on the City's public purchasing platform and two qualified firms submitted a proposal: the incumbent provider, HdL, and MuniServices. An evaluation team consisting of an Assistant CFO, Controller and Management Accountant/Auditor was formed to review the two proposals. Proposals were ranked based upon four weighted criteria: overall responsiveness, company profile, demonstrated technical competence to perform the service, and cost. Though both companies have positive references from many California public agencies, based on the combined individual scoring, staff is recommending awarding the contract to MuniServices, LLC as it will best meet the needs of the City.

California Revenue and Taxation Code Section 7056(b) states that the State Board of Equalization (now known as the California Department of Tax and Fee Administration or CDTFA) has the authority to allow authorized officers, employees, or designated individuals to examine the sales and use tax records maintained by the CDTFA. This permission is granted when the City requests it through a resolution adopted by the City Council. The purpose of Section 7056(b) is to enable the City to have access to and examine the sales and use tax records collected by the CDTFA. By granting access to these records, the City can verify the accuracy and completeness of the tax collection.

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

Sales and use tax audit services often include a revenue share element whereby the audit company that is able to identify a misallocation or some form of adjustment that benefits the City would receive compensation based on a percentage of that additional revenue. MuniServices will receive fifteen percent (15%) of all taxes identified that the City would likely have not received without that service. By comparison, the previous agreement with HdL included a 25% payment for any Measure E or O taxes recovered.

Staff anticipates that the tax recovered over the life of this agreement may result in estimated payments to MuniServices of $100,000 per year, similar to recent trends and experience. Staff recommends a five-year not to exceed contract value of $600,000, with $100,000 of this total allocated as contingency to account for inflationary or other unforeseen impacts, cognizant that under this agreement the City would be receiving the other 85% of any increased taxes recovered over historic averages.

The annual cost will be included in all General Fund Finance Department operating budgets for each fiscal year, beginning with the Proposed Budget for FY 2023-24.

For Finance Use Only: General Fund (Org. 1011602, Obj. 53200)

Prepared by: Mark Sewell, Assistant Chief Financial Officer

ATTACHMENTS

1. Muniservices Agreement 32400016
2. Resolution - Authorizing Examination of Sales, Transactions and Use Tax Records
3. Muniservices Agreement Presentaion

AGREEMENT FOR PROFESSIONAL SERVICES
COVER PAGE

(1) Agreement Start Date: July 01, 2023

(2) Consultant: Muniservices, LLC

(3) Services: Sales Tax Audit Services and Transaction Tax Audit Services for Measure O and Measure E

(4) Schedule of Services: See Scope of Services Exhibit A, which is attached hereto and incorporated herein

(5) Agreement Ending Date: June 30, 2028

(6) Total Agreement Amount: $600,000.00

(7) City's Project Manager: Mark Sewell, Interim CFO

(8) Consultant's Project Manager: Janis Varney, VP of Sales & Use Tax Audit

(9) Insurance Coverage: INS-A

(10) Addresses for Notice:

FOR CONSULTANT:	***FOR CITY:***
5860 Trinity Parkway, Suite 120	300 W Third Street
Centreville, VA 20120	Oxnard, CA 93030
Attn: Janis Varney	Attn: Mark Sewell

(11) Contact Emails:

CONSULTANT'S PROJECT MANAGER:	***CITY'S PROJECT MANAGER:***
Janis Varney	Mark Sewell
Janis.Varney@avenuinsights.com	mark.sewell@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:
X Scope of Services Exhibit
X Rates and Costs Exhibit
X Insurance Exhibit (INS-A)

AGREEMENT FOR PROFESSIONAL SERVICES

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

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

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

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

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

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

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

7. Acceptance of Payment. Consultant's acceptance of final payment made pursuant to this Agreement shall constitute a release of City from all claims and liabilities for compensation to Consultant for anything completed, finished or relating to the Services. 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. 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 Indemnitees from and against all Claims arising from or relating to any unauthorized assignment.

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

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

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

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

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

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

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

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

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

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

35. Notice. Except as otherwise required by law, a notice or communication authorized or required by this Agreement shall be in writing and shall be deemed received—on (a) the day of delivery if delivered by hand or overnight courier service during City's regular business hours or (b) the third business day following deposit in the United States mail, postage prepaid—to the addresses listed as "(10) Addresses for Notice" on the Cover Page or at such other address as one party may notify the other in writing.

36. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall be deemed to be one and the same agreement. A signed copy of this Agreement transmitted by email to Project Managers' emails listed in "(11) Contact Emails" on the Cover Page or by other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement for all purposes.

37. Severability. If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

[Signatures on next page]

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

CITY OF OXNARD

☐ John C. Zaragoza, Mayor[1] Date

ATTEST:

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

APPROVED AS TO FORM:

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

MUNISERVICES, LLC

Carl Kumpf, CEO Date

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

SCOPE OF SERVICES EXHIBIT

CONSULTANT/PROFESSIONAL SERVICE AGREEMENT
(City of Oxnard and Muniservices, LLC)

The Consultant shall perform the following services:

A. Sales Tax and Economic Analysis

1. Consultant shall establish a special database that identifies the name, address and quarterly allocations of all sales tax producers within the City for the most current and all quarters back to fiscal year 1998-1999 or earlier, if the City has prior historical sales tax data available on computer readable magnetic media. This database will be utilized to generate special reports to the City on: major sales tax producers by rank and category, sales tax activity by categories, or business districts, identification of reporting aberration, and per capita and outlet comparisons with regional and statewide sales.

2. Consultant shall provide up-dated reports following each calendar quarter identifying changes in sales by individual businesses, business groups and categories and by geographic area. These reports may include, without limitation, quarterly aberrations due to State audits, fund transfers, and receivables along with late or double payments, and quarterly reconciliation worksheets to assist with budget forecasting.

3. Consultant shall additionally provide following each calendar quarter a summary analysis for the City to share with Chambers of Commerce, other economic development interest groups and the public that analyze City's sales tax trends by major groups, and geographic areas without disclosing confidential information.

4. Consultant shall make available to City staff Consultant's web-based sales tax computer software program containing sellers permit and quarterly allocation information for all in-city business outlets registered with the California Department of Tax and Fee Administration and updated quarterly. This software shall allow City staff to search businesses by street address, account number, business name, business type and keyword, arrange data by geographic area, and print out a variety of reports.

B. Allocation Audit Recovery

1. Consultant shall conduct initial and on-going sales, use and transactions tax audits to identify and correct distribution and allocation errors and to proactively affect favorable registration, reporting or formula changes thereby generating previously unrealized sales, use and transactions tax income for the City and/or recovering misallocated tax from previously properly registered taxpayers. Common errors that will be monitored and corrected include, but are not limited to: transposition errors resulting in misallocations: erroneous consolidation of multiple outlets: formula error, misreporting of "point of sale" to the wrong location: delays in reporting new outlets: misallocating use tax payments to the allocation pools or wrong jurisdiction; and erroneous fund transfers and adjustments.

2. Consultant shall initiate contacts with state agencies, and sales management and accounting officials in companies that have businesses where a probability of error exists to verify whether current tax receipts accurately reflect the local sales activity. Such contacts will be conducted in a professional and courteous manner.

3. Consultant shall (i) prepare and submit to the California Department of Tax and Fee Administration information for the purpose of correcting allocation errors that are identified and (ii) follow-up with individual businesses and the California Department of Tax and Fee Administration to promote recovery by the City of back or prospective quarterly payments that may be owing.

4. If during the course of its audit. Contractor finds businesses located in the City that are properly reporting sales and use tax but have the potential for modifying their operation to provide an even greater share to the City, Consultant may so advise City and work with those businesses and the City to encourage such changes.

C. Deficiency/Allocation Reviews and Recovery for Measure "E" and Measure "O"

1. CONSULTANT shall conduct on-going reviews to identify and correct unreported transactions and use tax payments and distribution errors thereby generating previously unrealized revenue for the CITY. Said reviews shall include:

(i) Comparison of county-wide local tax allocations to transactions tax for brick and mortar stores and other cash register-based businesses, where clearly all transactions are conducted on-site within the Measure "E" and Measure "O" CITY boundaries, and therefore subject to transactions tax.

(ii) Review of any significant one-time use tax allocations to ensure that there is corresponding transaction tax payments for taxpayers with nexus within the CITY boundaries.

(iii) Review of state-wide transactions tax allocations and patterns to identify any obvious errors and omissions.

(iv) Identification and follow-up with any potentially large purchasers of supplies and equipment (e.g. hospitals, universities, manufacturing plants, agricultural operations, refineries) to ensure that their major vendors are properly reporting corresponding transactions tax payments to the Measure "E" and Measure "O" Transactions Tax District.

2. CONSULTANT, will initiate, where the probability of an error exists, contacts with the appropriate taxpayer management and accounting officials to verify whether current tax receipts accurately reflect the local sales activity. Such contacts will be conducted in a professional and courteous manner so as to enhance CITY's relations with the business community.

3. CONSULTANT shall prepare and submit to the Department of Tax and Fee Administration all information necessary to correct any allocation errors and deficiencies that are identified, and shall follow-up with the individual businesses and the California Department of Tax and Fee Administration to ensure that all back quarter payments due the CITY are recovered.

D. Data Base Management, Reports and Staff Support for Measure "E" and Measure "O"

1. CONSULTANT shall establish a database containing all applicable Department of Tax and Fee Administration (CDTFA) registration data for each business within the Measure "E" and Measure "O" District boundaries holding a seller's permit account. Said database shall also identify the quarterly

transactions and use tax allocations under each account for the most current and previous quarters, where available.

2. CONSULTANT shall provide updated reports each quarter identifying changes in allocation totals by individual businesses, business groups and by categories. Quarterly aberrations due to State audits, fund transfers, and receivables, along with late or double payments, will also be identified. Quarterly reconciliation worksheets to assist finance officer with budget forecasting will be included.

3. CONSULTANT shall advise and work with CITY Staff on planning and economic questions related to maximizing revenues, preparation of revenue projections and general information on sales, transactions and use tax questions
.
4. CONSULTANT shall make available to CITY the Consultant's proprietary software program and Measure "E" and Measure "O" database containing all applicable registration and quarterly allocation information for CITY business outlets registered with the Department of Tax and Fee Administration. The database will be updated quarterly.

E. Consulting and other optional services

Consultant may, from time to time in its sole discretion, consult with City staff, including without limitation, regarding (i) technical questions and other issues related to sales, use and transactions tax: (ii) utilization of reports to enhance business license collection efforts: and (iii) sales tax projections for proposed annexations, economic development projects and budget planning. In addition to the foregoing optional consulting services, Consultant may, from time to time in its sole discretion, perform other optional Services, including without limitation, negotiating/review of tax sharing agreements, establishing purchasing corporations, and meeting with taxpayers to encourage self-assessment of use tax.

F. Additional requirements

Consultant:
(i.) shall disclose information contained in, or derived from, sales or transactions and use tax records only to the City's Chief Financial Officer or other officer or employee of the City designated in writing by the City Manager to examine the information.
(ii.) shall not performing consulting services for a retailer during the term of that contract;
(iii.) shall not retain the information contained in, or derived from sales or transactions and use tax records, after this contract has expired.
(iv.) shall comply with Government Code Section 12410.6(b), as may be amended.

RATES AND COSTS EXHIBIT

CONSULTANT/PROFESSIONAL SERVICE AGREEMENT
(City of Oxnard and Muniservices, LLC)

SCHEDULE OF COMPENSATION

PROPOSED FEES:

a) Monthly Flat Fee Service for Sales Tax and Economic Analysis and Transactions Tax and Economic Analysis/Forecasting Services/Reports for Measure "E" and Measure "O" services

Type of Service	Monthly Flat Fee
Sales Tax and Economic Analysis	$0
Transaction Tax and Economic Analysis/Forecasting Services/Reports for Measure "E" and Measure "O"	$0

b) Percentage Fee for Allocation Audit Recovery and Transactions Tax and Economic Analysis/Forecasting Services/Reports for Measure "E" and Measure "O" services

Type of Service	Percentage of Recovery Amount
Allocation Audit Recovery	15%
Allocation Audit Recovery for Measure "E" and Measure "O"	15%

c.) Hourly Rate for Consulting and other Optional Services.

Type of Service	Hourly Rate
Consulting and other optional services	$90 - $350

INSURANCE EXHIBIT

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 <u>and</u> 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.

6/23

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

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 462500-4299 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

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

PRODUCER

Telephone:

NAMED INSURED

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

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

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

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

GENERAL LIABILITY
❒ COMMERCIAL GENERAL LIABILITY ❒ Claims Made
❒ COMPREHENSIVE GENERAL LIABILITY Retroactive Date _____
❒ OWNERS & CONTRACTORS PROTECTIVE ❒ Occurrence

OTHER PROVISIONS

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

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 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: _____

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

SUBMIT IN DUPLICATE

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

PRODUCER

Telephone:

NAMED INSURED

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

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

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

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

❒ COMMERCIAL AUTO POLICY
❒ BUSINESS AUTO POLICY
❒ OTHER

OTHER PROVISIONS

LIMIT OF LIABILITY

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

CLAIMS: Underwriter's representative for claims pursuant to this insurance.
Name: _____
Address: _____
Telephone: ( ) _____

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

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

a. Insurance Services Office Automobile Liability Coverage, "occurrence" form CA0001, code ("any auto"); or

b. If excess, affords coverage which is at least as broad as the primary insurance form referenced in the preceding section (1).

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

ENDORSEMENT HOLDER

CITY OF OXNARD % 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 _____

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD AUTHORIZING EXAMINATION OF SALES, TRANSACTIONS AND USE TAX RECORDS

WHEREAS, pursuant to Ordinance Nos. 2990 and 2779 of the City of Oxnard ("City), the City entered into a contract with the California Department of Tax and Fee Administration (Department) to perform all functions incident to the administration and collection of sales and use taxes; and

WHEREAS, the City has entered into a contract with the California Department of Tax and Fee Administration (Department) to perform all functions incident to the administration and collection of transactions and use taxes; and

WHEREAS, the City Council of the City of Oxnard deems it desirable and necessary for authorized officers, employees and representatives of the City to examine confidential sales or transactions and use tax records of the Department pertaining to sales and use taxes collected by the Department for the City pursuant to that contract; and

WHEREAS, Section 7056 of the California Revenue and Taxation Code sets forth certain requirements and conditions for the disclosure of Department records, and Section 7056.5 of the California Revenue and Taxation Code establishes criminal penalties for the unlawful disclosure of information contained in, or derived from, the sales or transactions and use tax records of the Department;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OXNARD HEREBY RESOLVES AS FOLLOWS:

Section 1. That the Finance Director or other officer or employee of the City designated in writing by the City Manager to the California Department of Tax and Fee Administration is hereby appointed to represent the City with authority to examine sales or transactions and use tax records of the Department pertaining to sales and use taxes collected for the City by the Department pursuant to the contract between the City and the Department.

Section 2. The information obtained by examination of Department records shall be used only for purposes related to the collection of City sales and use taxes by the Department pursuant to that contract, and for purposes related to the following governmental functions of the City:

(a) Economic Development

(b) Budgeting and Forecasting of sales or transactions or use taxes

(c) Detection of misallocations

The information obtained by examination of Department records shall be used only for those governmental functions of the City listed above.

Section 3. That MuniServices, LLC. is hereby designated to examine the sales or transactions and use tax records of the Department pertaining to sales and use taxes collected for the City by the Department. The person or entity designated by this section meets all of the following conditions, which are also included in the contract between the City and MuniServices, LLC:

a) has an existing contract with the City to examine those sales or transactions and use tax records;

b) is required by that contract to disclose information contained in, or derived from, those sales or transactions and use tax records only to the officer or employee authorized under Section 1 of this resolution to examine the information.

c) is prohibited by that contract from performing consulting services for a retailer during the term of that contract;

d) is prohibited by that contract from retaining the information contained in, or derived from those sales or transactions and use tax records, after that contract has expired.

BE IT FURTHER RESOLVED that the information obtained by examination of Department records shall be used only for purposes related to the collection of City sales, transaction and use taxes by the Department pursuant to the contract between the City and the Department and for those purposes relating to the governmental functions of the City listed in section 2 of this resolution

Section 4. That MuniServices, LLC. is hereby designated to examine the sales or transactions and use tax records of the Department pertaining to any petition or appeal for the reallocation/redistribtuion of sales or transactions and use taxes that was filed by MuniServices, LLC. on behalf of the City pursuant to the contract between the MuniServices, LLC. and City. The person or entity designated by this section meets all of the following conditions, which are also included in the contract between the City and the MuniServices, LLC.:

a) has an existing contract with the City to examine those sales or transactions and use tax records;

b) is required by that contract to disclose information contained in, or derived from, those sales or transactions and use tax records only to the officer or employee authorized under Section 1 of this resolution to examine the information.

c) is prohibited by that contract from performing consulting services for a retailer during the term of that contract;

d) is prohibited by that contract from retaining the information contained in, or derived from those sales or transactions and use tax records, after that contract has expired.

Section 5. That this resolution supersedes all prior resolutions of the City Council of the City of Oxnard adopted pursuant to subdivision (b) of Revenue and Taxation Code section 7056.

Section 6. Effective Date. This Resolution shall take effect upon adoption.

PASSED and ADOPTED this ___ of June, 2023.

AYES:

NOES:

ABSENT:

ABSTAINED:

_____
John C. Zaragoza, Mayor

ATTESTED:

_____
Rose Chaparro, City Clerk

APPROVED AS TO FORM:

_____
Stephen Fischer, City Attorney

Professional Services Agreement with MuniServices, LLC for Quarterly Sales Tax and Transaction Tax Audit Services

Finance and Governance Committee Meeting

Mark Sewell, Assistant Chief Financial Officer
June 27, 2023

CITY OF OXNARD CALIFORNIA

RECOMMENDATION

That the Finance and Governance Committee recommend to City Council:

a) Award Agreement number 32400016 to MuniServices, LLC for a five-year term in the amount not to exceed $600,000 for quarterly sales tax audit services and Measures O and E transaction tax audit services; and
b) Adopt a Resolution Authorizing Examination of Sales, Transaction and Use Tax Records to MuniServices, LLC.

BACKGROUND

- Sales tax auditing is common practice across municipalities in California.
- Helps City to receive all taxes owed.
- Since January 2017, The City has received these services from Hinderliter, de Llamas and Associates (HdL).
- Six years had passed and it is good practice to competitively bid goods and services.
- City issued a Request for Proposals (RFP) in February 2023.

SALES, USE AND TRANSACTION TAX AUDITING

- City received two proposals.
  - MuniServices and HdL
- Proposals were evaluated by Finance staff using the following criteria:
  - Overall Responsiveness
  - Company Profile
  - Demonstrate Competence
  - Cost Proposal
- Staff recommends Council award to MuniServices a 5-year agreement commencing July 1, 2023.

SALES, USE AND TRANSACTION TAX AUDITING

- City will pay MuniServices 15% of any taxes recovered as a result of audit work.
- The City retains 100% of the sales taxes and remits payment to MuniServices for their 15% compensation.
- MuniServices offer consulting services and financial forecasting for budgetary and other strategic planning as part of this compensation.
- Should the City require additional, in depth consulting, the City will agree in advance with MuniServices an hourly rate between $90 and $350 depending on the scope of those needs.

- California Revenue and Taxation Code Section 7056(b) states that the State Board of Equalization (now known as the California Department of Tax and Fee Administration or CDTFA) has the authority to allow authorized officers, employees, or designated individuals to examine the sales and use tax records maintained by the CDTFA.
  - This permission is granted when the City requests it through a resolution adopted by the City Council.
  - Section 7056(b) provides a mechanism for authorized representatives of the City to examine the sales and use tax records maintained by the CDTFA, in cases where the CDTFA has been collecting taxes on behalf of the City.

RECOMMENDATION

That the Finance and Governance Committee recommend to City Council:

a) Award Agreement number 32400016 to MuniServices, LLC for a five-year term in the amount not to exceed $600,000 for quarterly sales tax audit services and Measures O and E transaction tax audit services; and
b) Adopt a Resolution Authorizing Examination of Sales, Transaction and Use Tax Records to MuniServices, LLC.

CITY OF
OXNARD
CALIFORNIA

FINANCE AND GOVERNANCE COMMITTEE
AGENDA REPORT

REPORTS
AGENDA ITEM NO. D.3

DATE: June 27, 2023

TO: Finance & Governance Committee

FROM: Alexander Nguyen, City Manager, (805) 385-7430, alexander.nguyen@oxnard.org

SUBJECT: Second Amendment to Agreement No. 9675-22-CM with Aten Design Group, Inc. for Website Redesign Services (10 minutes)

RECOMMENDATION

That the Finance and Governance Committee recommend that City Council approve and authorize the execution of a Second Amendment to an Agreement with Aten Design Group, Inc. to increase Website Redesign Services for an additional $116,140, resulting in a not-to-exceed total cost of $316,140.

Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/c05GfYX18CM

BACKGROUND

The City's website is a major portal for the public and provides information about the City, its services, meetings, events and news. It averages nearly 20,000 unique visitors each month.

However, the current site design, which was created in 2015, is not intuitive. Sixty percent of Oxnard.org's visitors use search engines in order to access its information. The site is also operating on an obsolete version of Wordpress, is not customizable or adaptable for arising needs, and needs to be updated to meet current ADA standards.

The City does not have an internal developer team. Over the years, previous employees have attempted to update the site design or provide additional online services by creating customized codes. This is problematic for organizational continuity and security reasons, because when such an employee leaves there is no one available to maintain and update the customized code.

In 2021, the City issued a Request for Qualifications and hired Aten Design Group to create a new, modern website design with a logical site architecture that is flexible to the City's changing needs and simple for employees to manage. Aten has designed the websites for the cities of Denver, Colorado, and Raleigh, North Carolina, and was highly recommended by their employees.

On June 13, 2022, the City Manager authorized Agreement No. 9675-22-CM for the initial amount not to exceed $169,950. Aten's scope of work includes:

- Developing a website strategy through user research and a technical audit

- Creating the site's information architecture, including navigation structure, wireframes and technical plan
- Developing a responsive and accessible website design that incorporates the city's branding, meets the needs of various departments and provides access to services for Oxnard's community members
- Building the backend and frontend of the website
- Training City staff on the new layout and design components, and creating a website usage guide for all current and future employees
- Launching the website
- Providing on-call services for post-site launch

As the Aten team commenced work with City staff and gained access to the back end of the website for the first time, the development team discovered that many outdated, customized plugins are still active and used daily on the website.

Furthermore, Aten's deep dive into the architecture of the current site uncovered numerous issues with outdated and incorrect content as well as site architecture issues that need considerable strategy work to address in a way that is maintainable for the City over time.

On June 20, 2023, a first amendment was authorized by the City Manager to increase the amount from $169,950 to $200,000 to support continued project work in the current fiscal year.

In order to address the security and functionality issues discovered with the current site's design, Aten proposed design and development work that would require an additional $116,140 in funding for a not-to-exceed total cost of $316,140. This cost was included in the proposed Fiscal Year 2023-24 budget for the City Manager's Office.

The additional investments will continue to provide access to services that both community members and City staff need, and it will ensure that the new website design has the proper useability, functionality, and plugins needed for increased cyber resiliency that is sustainable for years to come.

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 the Website Redesign Project is included in the City Manager's proposed FY 23-24 operational budget.

For Finance Use Only: General Fund (Org. 1011001 Obj. 53200 via 57800)

Prepared by: Katie Casey, Communications Manager

ATTACHMENTS

1. Agreement with Aten Design Group, Inc.
2. First Amendment with Aten Design Group, Inc.
3. Second Amendment with Aten Design Group, Inc.

AGREEMENT FOR PROFESSIONAL SERVICES
COVER PAGE

(1) Agreement Start Date: June 13, 2022

(2) Consultant: Aten Design Group, Inc., a Colorado Corporation

(3) Services: City Website Redesign Project

(4) Schedule of Services: "Schedule of Services Exhibit A"

(5) Agreement Ending Date: June 30, 2024

(6) Total Agreement Amount: $169,950.00

(7) City's Project Manager: Katie Casey, Communications Manager

(8) Consultant's Project Manager: Joe Crespo, Director of Accounts

(9) Insurance Coverage: INS-W

(10) Addresses for Notice:

FOR CONSULTANT:

1615 Platte Street, Suite 200
Denver, CO 80202
Attn: Joe Crespo, Director of Accounts

FOR CITY:

300 West Third Street, Fourth Floor
Oxnard, CA 93030
Attn: Katie Casey, Communications Manager

(11) Contact Emails:

CONSULTANT'S PROJECT MANAGER:

joe@atendesigngroup.com

CITY'S PROJECT MANAGER:

katie.casey@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-W)

AGREEMENT FOR PROFESSIONAL SERVICES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14. Hold Harmless, Defense and Indemnity.

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

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

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

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

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

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

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

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

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

31. Integration; Amendment. This Agreement, including any other documents incorporated herein by specific reference, constitutes the entire and integrated agreement of City and Consultant regarding the subject matter described herein. This Agreement supersedes all prior oral or written communications, negotiations,

representations, agreements and promises. This Agreement may not be modified or amended, nor any provision or breach waived, except in a writing, signed by both parties, that expressly refers to this Agreement.

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

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

34. Attorneys' Fees. The prevailing party shall be entitled to recover reasonable costs, attorneys' fees (including the reasonable value of the services rendered by the City Attorney's Office) and expenses, including investigation fees and expert witness fees, in addition to any other 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 Transmission of Contract and Signature. The parties agree that this Agreement may be transmitted and signed by electronic or digital means 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 California Civil Code Section 1633.7."

[Signatures on next page]

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

CITY OF OXNARD

6/28/2022

☐ John C. Zaragoza, Mayor[1] Date
■ Alexander Nguyen, City Manager
☐ Jennifer Yates, Purchasing Manager
☐ [name], Buyer

ATEN DESIGN GROUP, INC., a Colorado Corporation

Justin Toupin, CEO[2] 6/22/2022 Date

Date

ATTEST:

N/A

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

APPROVED AS TO FORM:

6/17/22

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

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

[2] The City requires the following for any contract:

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

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

6/28/2022

☐ John C. Zaragoza, Mayor[1] Date
■ Alexander Nguyen, City Manager
☐ Jennifer Yates, Purchasing Manager
☐ [name], Buyer

ATEN DESIGN GROUP, INC., a Colorado Corporation

Justin Toupin, CEO[2] Date

Date

ATTEST:

N/A

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

APPROVED AS TO FORM:

6/17/22

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

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

[2] The City requires the following for any contract:

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

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

EXHIBIT A

SCOPE OF SERVICES

Strategy and User Research 6 Weeks | Up to 100 Hours of Budgeted time *Estimated starting June 2022*	**$16,500** Budget Total
Discovery	Aten will review extant discoveries leading up to this project. Aten will conduct ongoing collaborative research and exploration to fully understand the history of the project as well as core challenges and opportunities for the City of Oxnard's website. The City will provide Aten interviews with appropriate staff members in the IT and Communications Department to provide background on the website. The City will provide Aten with view-only access to 1) the backend of the current website and 2) Matomo website analytics account in order for Aten to provide a robust analysis that will be presented to the city.
Stakeholder Surveys	Aten will create questionnaires for the City to distribute in order to help provide baseline guidance on the community's wants / needs. This will include both a paper and digital format. The City will support outreaching to the following Target Audiences: • Senior Community • Parents Groups/City's After School Programs • Online Groups (Citizens for a Better Oxnard Facebook page) • Paid online survey ad (Facebook and IG ads paid for by the City) • Businesses (Chamber of Commerce) • Oxnard College students • Utility billing (email survey to all utility bill users) Aten will collect, quantify and analyze the questionnaire results as part of their research for the City that will be presented to the City. These findings will drive design discussions and decisions.
Personas	Aten will develop key personas based on Focus Group findings and other documentation. City will review, edit and approve these personas.

Task Analysis	Once personas are defined, the teams at Aten will define the most common and impactful real-world tasks those users will perform on the website. Aten will use this list as a framework for prioritizing information architecture work. The City's Project Manager (Communications Manager) will review and provide edits and changes recommended by the City Manager to these task lists.
Technical Audit	In order to have a complete understanding of the functionality, and user journeys of the City's website, Aten will conduct platform walkthroughs, ongoing collaborative research, and exploration to fully understand the core development challenges and opportunities ahead. Aten will also research and recommend the best way to produce Spanish translation services for all content on the City's website. The Aten team will also review any third-party apps and widgets that the City uses on its current website and provide recommendations for accommodating these services (or replacing them) in the new web design. Aten will also review the backend materials on the current City website, and propose an action plan for the City to migrate selected content to the newly designed website. This includes identifying old content and raising the recommendation for archiving and/or removing content that has not been touched in years.

Workshops 2-6 Weeks | Up to 60 Hours of Budgeted time *Estimated Start July/August 2022*	**$9,000** Budget Total
Workshops (4)	Aten's strategy and design workshops fall into three categories: • Discovery Workshops • User Empathy Workshops • Design Workshop At least four workshops/exercises will be scheduled by mutual agreement during the engagement. For more information on Aten's workshops, please see page 41 of the technical proposal.

INFORMATION ARCHITECTURE 8 Weeks | Up to 140 Hours of Budgeted time *Estimated Start August/September - November 2022*	**$32,100** Budget Total
Navigation Structure	Based on goals and users needs, Aten will clearly document the intended website structure and interactions in a hierarchical Sitemap. The City's Project Manager (Communications Manager) will review and provide edits and changes recommended by the City Manager. The City Manager will approve the final navigation structure.
Wireframes	Aten will provide simple, gray-box wireframes that will suggest content hierarchy and high-level layout, guiding design and development efforts. The City's Project Manager (Communications Manager) will review and provide edits and changes recommended by the City Manager. The City Manager will approve the final wireframe structure.
Technical Plan	In collaboration with the development team, Aten will create an effective technical approach for the project. This plan will cover content generation and entry, Wordpress data structures (post types), user roles & permissions, user workflows, and define website features as well as technical approach. The approved migration of content will also be featured in this plan. Aten will assign roles to both the City staff and its internal team to ensure content migration is done in an easy manner with clear direction provided to all parties involved in the process. This will provide City staff with a clear roadmap on how to prioritize information that needs to be migrated and complete it in a manner that is clearly and concisely understood by the Aten team. Both Aten and the City participate in backlog grooming during this phase. It will be reviewed and reprioritized throughout development. The City's Project Manager (Communications Manager) will review and provide edits and changes recommended by the City's Chief Information Officer, and will secure final approvals by the City Manager. The approved technical plan will be used to build a sprint plan for all development phases.

Scope Review	Informed by collaborative discovery and the requirements in the Scope of Work, Aten will create a prioritized list of requirements and granular tasks for their design team to complete. This is a budget control checkpoint and will mitigate risk throughout development. The City's Project Manager (Communications Manager) will review and provide edits and changes recommended by the City's Chief Information Officer, and will secure final approvals by the City Manager.
Web Hosting Service Provider	Aten will work with the City to establish the Account Support Tier and Hosting Plan with Pantheon. Aten will establish direct communication between the City Manager's Office, its Chief Information Officer/IT Department and Pantheon. Aten will create a WordPress instance on the Pantheon platform. Aten will also provide guidance to the City on when to commence the contract with Pantheon and will consider the City's 8-week procurement timeframe in order to be cost-effective with the website development budget. The City will manage the Pantheon account and oversee the roles and permissions. The City will add Aten as a supporting organization to its Pantheon account, which will provide access to Aten's developers. Each Aten team member will be pre-approved by the City's Chief Information Officer, or their delegate, to have this access, and will receive a unique Pantheon user ID and password intended for their own use only. The Aten team members will not share, disclose, record (written & verbal) or reuse their Pantheon credentials. The level of access granted to an individual will be the minimum required to perform their assigned role and responsibilities. Once the City signs a contract with Pantheon, Aten will support the City's account set-up and work to establish it to complement the recommended design for the City's website.
Translation Services	Aten will work with the City to identify the best translation tool to be

	hosted on the website. Aten will ensure that the design team will produce materials that can easily be translated by incorporating this tool into the final work product. The City will pay for the translation service (if recommended) and ensure that Aten has access to any paid account services for design purposes.

RESPONSIVE & ACCESSIBLE DESIGN 8 Weeks | Up to 120 Hours of Budgeted time *Estimated Start November/December 2022 - January/February 2023*	**$19,800** Budget Total
Design Exploration	Aten will use research from the discovery phase and guidance by Oxnard's brand guidelines to establish a foundation for the design. Aten will look at typography, use of color and imagery, and specific user interface elements – outside the confines of a specific Layout. Aten will also ensure ADA compliance during design exploration and also consider the need for the use of a Spanish translation tool to support the final design during the exploration phase The Aten team will also incorporate any third-party apps and widgets into the design recommendations. The City will pay for third party apps and widgets licensing costs.
Design Direction	Aten will expand on the initial Design Exploration, establish typographic scale, visual hierarchy, navigation patterns, and grid structure with full-fidelity page mockups for key pages in both desktop and mobile. The City's Project Manager (Communications Manager) will review and provide edits and changes recommended by the City Manager. The City Manager will approve the final wireframe structure.
Design System	With design established, Aten will develop a design system and style guide that clearly documents design direction and provides a guideline for extending design throughout your website. At this time, the Aten team will discuss progress with the City's current task of identifying the number of pages to migrate content to the new system. The City will identify an estimated update of content

	that needs to be migrated during this phase. The City's Project Manager (Communications Manager) will review and provide edits and changes recommended by the City Manager. The City Manager will approve the final wireframe structure. Any changes to the design and its system that results in a change order by Aten to the project must be approved by the City's Project Manager (Communications Manager), or their delegate.
ADA Compliance Review	Aten will ensure the proposed design meets ADA compliance and addresses the best practices released by the U.S. Department of Justice in March 2022 https://beta.ada.gov/web-guidance/

Agile Development Sprints 12 Weeks | Up to 550 Hours of Budgeted time *Starting January/February 2023 - March/April 2023*	**$90,750** Budget Total
Planning	At the outset of each sprint, each user story is clearly documented, along with estimates and acceptance criteria developed by Aten and approved by the City's Project Manager (Communications Manager).
Daily Standup	The Aten team follow Agile Scrum methodologies and host daily standups to review yesterday's progress, confirm tickets on-deck for today, and identify any blockers. Aten will provide weekly project status updates, either via video meetings or email, to identify progress and any challenges that may need to be addressed in the week ahead. Aten will clearly define what the City needs to provide and approve during these weekly status updates in order to ensure that the project remains on time and on budget.
Cross-Functional Development	The Aten team will follow modern best practices for backend and frontend web development. More specifically, Aten will adhere to community coding standards and follow SMACSS modular development guidelines for CSS.
QA /Testing	Each ticket moves through two distinct QA stages in the workflow: one for internal review (Aten), another for client Approval (City).

	Aten will ensure during this stage that the website is functional tested for quality assurance for items including: • Browser support • Operating systems • Screen resolutions including responsive for mobile • Assistive technologies • Color blindness • Text sizing The City's Project Manager (Communications Manager) will review and provide edits and changes prior to approval.
Retrospectives	Retros are an important component of Agile. We invite clients to fully participate in each retrospective, an open conversation about what worked well and what could be improved for each sprint. The City's Project Manager (Communications Manager) will participate and invite any additional staff members (as needed) to participate in retrospectives at the end of each sprint.

TRAINING & LAUNCH 2 Weeks | Up to 60 Hours of Budgeted time *Starting June 2022*	**$9,900** Budget Total
Launch Preparation	The Aten team will polish development features, crawl the site for 404 errors, and conduct final performance tests. The Aten team will provide high-level recaps to the City's project manager during this two-week period to report both progress and/or significant issues that arose the steps the team took to mediate them.
Finalize Training Documentation	Aten will provide: • documentation in the form of inline help text, shared documents, and video capture will be created and shared with the City during all phases of development. Aten will curate and organize documentation so it can be easily understood by content editors that only occasionally use the Wordpress authoring interface.
Training Workshop	Relevant Aten personnel will conduct training sessions to help so the City's core web team and regular content editors understand the new

	system well enough to provide training to future editors.
Launch	Upon the City Manager or delegate's formal launch written approval, Aten will provide final deployment to production and perform DNS switch. Aten recommends a preview launch (e.g. https://preview.oxnard.org/), which allows the City to show the site to residents and businesses without replacing the current website. This allows the Aten team to continue to work in partnership with the City to ensure a smooth transition from the old website to the new. Aten will work with the web host provider to address any site outages. Aten operates from 8 a.m.–5 p.m. MT, Monday–Friday, has a same day response SLA, and will provide a timeline to resolution within one business day. For major outages, the City will have multiple direct contacts with Aten, including video and phone contacts, to ensure prompt response and service.
Warranties and Representations	Aten will provide post-site launch warranty support for a 30-day period starting on the first day that the City's new website is available to the public and ending on the 30th calendar day. Post-launch warranty services are limited to site functionality that fails to perform as designed, agreed upon, tested, and accepted by the City during the implementation. At the conclusion of the post-launch warranty period, at the City's request, Aten will refresh the Pantheon hosted development and test environments using a current copy of the production site. Prior to refreshing, an archive backup of the original development and test environments will be taken and saved with a retention period defined by City. All post-launch production changes made by Aten will adhere to the City's change control process.

ON CALL SERVICES *Starting July 2022*		Hourly rate $165
Post-Site Launch	Aten will be available for post-site launch support as needed to work through various design needs and City requests for services.	

EXHIBIT B
RATES AND COSTS

BUDGET

We are a time-and-materials consulting shop. In our experience, time-and-materials best complements a partnership between clients and vendors. We clearly document priorities, carefully estimate the level of effort on tasks and frequently report on progress. As consulting partners, we supply our clients with the information they need to make their best possible decisions throughout the entire process. Our rate is $165 per hour and is extremely competitive among our peers.

Here is a roll-up of estimated costs based on what we know now about your requirements and our past experience with similar projects.

BUDGET ITEM	HOURS	TOTAL
Stragety & User Research	100	$16,500
Workshops	60	$9,900
Information Architecture	140	$32,100
Responsive & Accessible Design	120	$19,800
Agile Development Sprints	550	$90,750
Training & Launch	60	$9,900
Estimated Travel Expenses	-	-
TOTAL	1,030	$169,950

PAYMENT SCHEDULE

- Initial project deposit of $19,800 is due prior to kickoff.
- Monthly time-and-materials invoices indicating current balance summary will be submitted upon the first workday of each month, along with accompanying hours reports. Payment is Net 30. Invoice reminders will be sent twice per month on all open invoices.

INSURANCE EXHIBIT (INS-CC)

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 07/19/2022

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

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

PRODUCER

StateFarm

Tammy Hill, State Farm Agent
2851 S PARKER RD. SUITE 1-0986
AURORA, CO 80014

CONTACT NAME: Tammy Hill
PHONE (A/C, No, Ext): 303-399-2600 FAX (A/C, No): 303.399.2260
E-MAIL ADDRESS: TAMMY.HILL.JHPQ@STATEFARM.COM

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : State Farm Fire and Casualty Company	25143
INSURER B :	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED

ATEN DESIGN GROUP INC
1615 S PLATTE ST. SUITE 200
DENVER, CO. 80202

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	[X] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS-MADE [X] OCCUR [X] Primary & Noncontributory GEN'L AGGREGATE LIMIT APPLIES PER: [ ] POLICY [ ] PRO-JECT [ ] LOC OTHER:	N	Y	96-EQ-Z0975	06/20/2022	06/20/2023	EACH OCCURRENCE	$ 2,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 300,000
							MED EXP (Any one person)	$ 5,000
							PERSONAL & ADV INJURY	$ 2,000,000
							GENERAL AGGREGATE	$ 4,000,000
							PRODUCTS - COMP/OP AGG	$ S/T Gen.Agg
								$
	AUTOMOBILE LIABILITY [ ] ANY AUTO [ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS [X] HIRED AUTOS ONLY [X] NON-OWNED AUTOS ONLY			96-EQ-Z0975	06/20/2022	06/20/2023	COMBINED SINGLE LIMIT (Ea accident)	$
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
							CGL HNOLA Limit	$ 2,000,000
	[X] UMBRELLA LIAB [ ] OCCUR EXCESS LIAB [ ] CLAIMS-MADE DED RETENTION $			96-KW-7909-0	09/17/2021	09/17/2022	EACH OCCURRENCE	$ 2,000,000
							AGGREGATE	$ 2,000,000
								$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N [ ] (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		96-MT-F677-1	01/07/2022/	01/07/2023	[X] PER STATUTE [ ] OTH-ER	
							E.L. EACH ACCIDENT	$ 100,000
							E.L. DISEASE - EA EMPLOYEE	$ 100,000
							E.L. DISEASE - POLICY LIMIT	$ 500,000
A	Professional Liability	Y		PS0000003916311	12/14/2021	12/14/2022	Limit of Liability Total Limit of Liablity	1,000,000 1,000,000

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

CITY OF OXNARD
Attn: Insurance Compliance
Reference No._9645-22-CM
Via Email: cityofoxnard@ebix.com
Via Fax: 678-259-1007

CERTIFICATE HOLDER

City of Oxnard Attn: Insurance Compliance
P.O. Box 100085 – OX
Duluth GA 30096

CANCELLATION

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

AUTHORIZED REPRESENTATIVE

© 1988-2015 ACORD CORPORATION. All rights reserved.

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 07/07/2022

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

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

PRODUCER

StateFarm

Tammy Hill, State Farm Agent
2851 S PARKER RD. SUITE 1-0986
AURORA, CO 80014

CONTACT NAME: Tammy Hill
PHONE (A/C, No, Ext): 303-399-2600 FAX (A/C, No): 303.399.2260
E-MAIL ADDRESS: TAMMY.HILL.JHPQ@STATEFARM.COM

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : State Farm Fire and Casualty Company	25143
INSURER B :	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED

ATEN DESIGN GROUP INC
1615 S PLATTE ST. SUITE 200
DENVER, CO. 80202

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	[X] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: [ ] POLICY [ ] PRO-JECT [ ] LOC OTHER:	Y	Y	96-EQ-Z0975	06/20/2022	06/20/2023	EACH OCCURRENCE	$ 2,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 300,000
							MED EXP (Any one person)	$ 5,000
							PERSONAL & ADV INJURY	$ 2,000,000
							GENERAL AGGREGATE	$ 4,000,000
							PRODUCTS - COMP/OP AGG	$ 4,000,000
								$
	AUTOMOBILE LIABILITY [ ] ANY AUTO [ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS [X] HIRED AUTOS ONLY [ ] NON-OWNED AUTOS ONLY			96-EQ-Z0975	06/20/2022	06/20/2023	COMBINED SINGLE LIMIT (Ea accident)	$
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
	[X] UMBRELLA LIAB [ ] OCCUR EXCESS LIAB [ ] CLAIMS-MADE [ ] DED [ ] RETENTION $			96-KW-7909-0	09/17/2021	09/17/2022	EACH OCCURRENCE	$ 2,000,000
							AGGREGATE	$ 2,000,000
								$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N [ ] (Mandatory In NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		96-MT-F677-1	01/07/2022/	01/07/2023	[X] PER STATUTE [ ] OTH-ER	
							E.L. EACH ACCIDENT	$ 100,000
							E.L. DISEASE - EA EMPLOYEE	$ 100,000
							E.L. DISEASE - POLICY LIMIT	$ 500,000
	Technolology Services Errors and Omissions Liability Insurance	Y		PS0000003916311	12/14/2021	12/14/2022	Limit of Liability	1,000,000
							Total Limit of Liablity	1,000,000

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

DATA BREACH ENDORESMENT COVERAGED ADDED JUNE-29-2022

CERTIFICATE HOLDER

CITY OF OXNARD
Attn: Insurance Compliance Reference No._____
P.O. Box 100085 – OX
Duluth, GA 30096

CANCELLATION

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

AUTHORIZED REPRESENTATIVE

© 1988-2015 ACORD CORPORATION. All rights reserved.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CMP-4786.1 ADDITIONAL INSURED — OWNERS, LESSEES, OR CONTRACTORS (Scheduled)

This endorsement modifies insurance provided under the following:
BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Policy Number: 96 EQZ097 5

Named Insured:
ATEN DESIGN GROUP INC
1615 PLATTE ST STE 200
DENVER CO 80202-1828

Name And Address Of Additional Insured Person Or Organization:
CITY OF OXNARD
ATTN: INSURANCE COMPLIANCE
PO BOX 100085-OX
DULUTH, GA 30096

1. **SECTION II — WHO IS AN INSURED** of **SECTION II — LIABILITY** is amended to include, as an additional insured, any person or organization shown in the Schedule, but only with respect to liability for "bodily injury", "property damage", or "personal and advertising injury" caused, in whole or in part, by:
   a. **Ongoing Operations**
      (1) Your acts or omissions; or
      (2) The acts or omissions of those acting on your behalf;

      in the performance of your ongoing operations for that additional insured; or
   b. **Products – Completed Operations**

      "Your work" performed for that additional insured and included in the "products-completed operations hazard".

   However, Paragraph **1.** above is subject to the following:
   a. The insurance afforded to the additional insured only applies to the extent permitted by law;
   b. If coverage provided to the additional insured is required by a contract or agreement, the insurance provided to the additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured; and
   c. If the contract or agreement between you and the additional insured is governed by California Civil Code Section 2782 or 2782.05, the insurance provided to the additional insured is the lesser of that which:
      (1) Is allowed for the satisfaction of a defense or indemnity obligation by California Civil Code Section 2782 or 2782.05 for your sole liability; or
      (2) You are required by contract or agreement to provide for such additional insured.

   We have no duty to defend or indemnify the additional insured under this endorsement until a claim or "suit" is tendered to us.

©, Copyright, State Farm Mutual Automobile Insurance Company, 2013
Includes copyrighted material of Insurance Services Office, Inc., with its permission.
CONTINUED

2. Any insurance provided to the additional insured shall only apply with respect to a claim made or a "suit" brought for damages for which you are provided coverage.

3. With respect to the insurance afforded to the additional insured, the following is added to **SECTION II — LIMITS OF INSURANCE**:

   If coverage provided to the additional insured is required by contract or agreement, the most we will pay on behalf of the additional insured will be the lesser of the amount of insurance:

   a. Required by the contract or agreement; or

   b. Available under the applicable Limits Of Insurance shown in the Declarations.

   This endorsement shall not increase the applicable Limits Of Insurance shown in the Declarations.

4. With respect to the insurance afforded to the additional insured, the following is added to Paragraph **3. Duties In The Event Of Occurrence, Offense, Claim Or Suit** of **SECTION II — GENERAL CONDITIONS**:

   The additional insured must:

   a. See to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

      (1) How, when and where the "occurrence" or offense took place;

      (2) The names and addresses of any injured persons and witnesses; and

      (3) The nature and location of any injury or damage arising out of the "occurrence" or offense;

   b. Tender the defense and indemnity of any claim or "suit" to us and to all other insurers who may have insurance potentially available to the additional insured; and

   c. Agree to make available any other insurance the additional insured has for defense or damages for which we would provide coverage under **SECTION II — LIABILITY**.

5. With respect to the insurance afforded the additional insured, the following replaces **SECTION II —LIABILITY** of Paragraph **7. Other Insurance** of **SECTION I AND SECTION II — COMMON POLICY CONDITIONS**:

   a. This insurance is primary to and will not seek contribution from any other insurance available to the additional insured, provided that the additional insured is a named insured under such other insurance.

   b. Regardless of any agreement between you and the additional insured, this insurance is excess over any other insurance whether primary, excess, contingent or on any other basis for which the additional insured has been added as an additional insured on other policies.

There will be no refund of premium in the event this endorsement is cancelled.

All other policy provisions apply.

1007033 148011 08-21-2014

©, Copyright, State Farm Mutual Automobile Insurance Company, 2013
Includes copyrighted material of Insurance Services Office, Inc., with its permission.

AGENCY CUSTOMER ID: _____

LOC #: _____

ACORD® ADDITIONAL REMARKS SCHEDULE

AGENCY TAMMY HILL INSURANCE AGENCY	NAMED INSURED ATEN DESIGN GROUP INC 1615 S PLATTE ST. SUITE 200 DENVER, CO. 80202
POLICY NUMBER 96-EQ-Z0975	
CARRIER: State Farm Fire and Casualty Company NAIC CODE: 25143	EFFECTIVE DATE: 06/20/2022

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 24 **FORM TITLE:** Certificate of Property Insurance

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.

© 2008 ACORD CORPORATION. All rights reserved.

The ACORD name and logo are registered marks of ACORD

AGENCY CUSTOMER ID: _____

LOC #: _____

ACORD® ADDITIONAL REMARKS SCHEDULE

AGENCY TAMMY HILL INSURANCE AGENCY	NAMED INSURED ATEN DESIGN GROUP INC 1615 S PLATTE ST. SUITE 200 DENVER, CO. 80202
POLICY NUMBER 96-EQ-Z0975	
CARRIER: State Farm Fire and Casualty Company NAIC CODE: 25143	EFFECTIVE DATE: 06/20/2022

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 24 **FORM TITLE:** Certificate of Property Insurance

-Additional Insured Endorsement forms CG2010 11/85 or equivalent must be provided in addition to the Certificate of Insurance naming: City, its City Council, officers, employees, agents and volunteers are named 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; automobiles owned, leased, hired or borrowed by Consultant. as Additional Insured for the General Liability.

-Waiver of Subrogation form must be provided in addition to the Certificate of Insurance in favor of: City, its City Council, officers, employees, agents and volunteers are named 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; automobiles owned, leased, hired or borrowed by Consultant. for Workers Compensation.

-Primary/Non-Contributory Endorsement form must be provided in addition to the Certificate of Insurance for General Liability.

-Workers Compensation: Must provide coverage for the following State(s): CA

© 2008 ACORD CORPORATION. All rights reserved.

The ACORD name and logo are registered marks of ACORD

FIRST AMENDMENT TO PROFESSIONAL SERVICES

This First Amendment ("First Amendment") to the Professional Services ("Agreement") is made and entered into in the County of Ventura, State of California, this 20th day of June, 2023, by and between the City of Oxnard, a municipal corporation ("City"), and Aten Design Group, Inc., a Colorado Corporation ("Consultant"). This First Amendment amends the Agreement entered into on June 13, 2022, by City and Aten.

City and Consultant agree as follows:

1. The references to the "Schedule of Services Exhibit A" and "EXHIBIT A SCOPE OF SERVICES" everywhere those terms are listed both on the Cover Page of the Agreement and in the Agreement are hereby amended to "Scope of Services Exhibit A-1." The "Schedule of Services Exhibit A" and "EXHIBIT A SCOPE OF SERVICES" are hereby disincorporated; instead, the "Scope of Services Exhibit A-1" is attached hereto and incorporated herein by this reference.

2. In Section 6 of the Cover Page of the Agreement, the amount "$169,950" is deleted and replaced with "$200,000".

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

[Signatures on next page]

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

CITY OF OXNARD
Corporation

Jennifer Yates 6/20/2023

☐John C. Zaragoza, Mayor[1] Date
☒Jennifer Yates, Purchasing Agent[3]

ATEN DESIGN GROUP, INC., a Colorado

June 19, 2023

Justin Toupin, CEO[2], Date

_____ _____
,[4] Date

ATTEST:

n/a

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

APPROVED AS TO FORM:

6/19/2023

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]

[3] The Purchasing Agent may execute any authorized agreement up to $200,000.

[4] 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 A-1

Strategy and User Research Up to 100 Hours of Budgeted time *Started August 2022*	**$16,500** Budget Total
June 2023 - Add additional 5 Hours of project time	June 2023 Additional Budget Total: **$825**
Discovery	Aten will review extant discoveries leading up to this project. Aten will conduct ongoing collaborative research and exploration to fully understand the history of the project as well as core challenges and opportunities for the City of Oxnard's website. The City will provide Aten interviews with appropriate staff members in the IT and Communications Department to provide background on the website. The City will provide Aten with view-only access to 1) the backend of the current website and 2) Matomo website analytics account in order for Aten to provide a robust analysis that will be presented to the city.
Stakeholder Surveys	Aten will create questionnaires for the City to distribute in order to help provide baseline guidance on the community's wants / needs. This will include both a paper and digital format. Aten will collect, quantify and analyze the questionnaire results as part of their research for the City that will be presented to the City. These findings will drive design discussions and decisions.
Personas	Aten will develop key personas based on Focus Group findings and other documentation. City will review, edit and approve these personas.
Task Analysis	Once personas are defined, the teams at Aten will define the most common and impactful real-world tasks those users will perform on the website. Aten will use this list as a framework for prioritizing

	information architecture work. The City's Project Manager (Communications Manager) will review and provide edits and changes recommended by the City Manager to these task lists.
Technical Audit	In order to have a complete understanding of the functionality, and user journeys of the City's website, Aten will conduct platform walkthroughs, ongoing collaborative research, and exploration to fully understand the core development challenges and opportunities ahead. Aten will also research and recommend the best way to produce Spanish translation services for all content on the City's website. The Aten team will also review any third-party apps and widgets that the City uses on its current website and provide recommendations for accommodating these services (or replacing them) in the new web design. Aten will also review the backend materials on the current City website, and propose an action plan for the City to migrate selected content to the newly designed website. This includes identifying old content and raising the recommendation for archiving and/or removing content that has not been touched in years.

Workshops Up to 60 Hours of Budgeted time *September - October 2022*	**$9,900** Budget Total
Workshops (4)	Aten's strategy and design workshops fall into three categories: • Discovery Workshops • User Empathy Workshops • Design Workshop At least four workshops/exercises will be scheduled by mutual agreement during the engagement. For more information on Aten's workshops, please see page 41 of the technical proposal.

INFORMATION ARCHITECTURE Up to 140 Hours of Budgeted time *Started December 2022*	**$23,100** Budget Total
June 2023 - Add additional 112 hours of project time	June 2023 Additional Budget Total: **$18,480**
Navigation Structure	Based on goals and users needs, Aten will clearly document the intended website structure and interactions in a hierarchical Sitemap. The City's Project Manager (Communications Manager) will review and provide edits and changes recommended by the City Manager. The City Manager will approve the final navigation structure.
Wireframes	Aten will provide simple, gray-box wireframes that will suggest content hierarchy and high-level layout, guiding design and development efforts. The City's Project Manager (Communications Manager) will review and provide edits and changes recommended by the City Manager. The City Manager will approve the final wireframe structure.
Technical Plan	In collaboration with the development team, Aten will create an effective technical approach for the project. This plan will cover content generation and entry, Wordpress data structures (post types), user roles & permissions, user workflows, and define website features as well as technical approach. The approved migration of content will also be featured in this plan. Aten will assign roles to both the City staff and its internal team to ensure content migration is done in an easy manner with clear direction provided to all parties involved in the process. This will provide City staff with a clear roadmap on how to prioritize information that needs to be migrated and complete it in a manner that is clearly and concisely understood by the Aten team. Both Aten and the City participate in backlog grooming during this

	phase. It will be reviewed and reprioritized throughout development. The City's Project Manager (Communications Manager) will review and provide edits and changes recommended by the City's Chief Information Officer, and will secure final approvals by the City Manager. The approved technical plan will be used to build a sprint plan for all development phases.
Scope Review	Informed by collaborative discovery and the requirements in the Scope of Work, Aten will create a prioritized list of requirements and granular tasks for their design team to complete. This is a budget control checkpoint and will mitigate risk throughout development. The City's Project Manager (Communications Manager) will review and provide edits and changes recommended by the City's Chief Information Officer, and will secure final approvals by the City Manager.
Web Hosting Service Provider	Aten will work with the City to establish the Account Support Tier and Hosting Plan with Pantheon. Aten will establish direct communication between the City Manager's Office, its Chief Information Officer/IT Department and Pantheon. Aten will create a WordPress instance on the Pantheon platform. Aten will also provide guidance to the City on when to commence the contract with Pantheon and will consider the City's 8-week procurement timeframe in order to be cost-effective with the website development budget. The City will manage the Pantheon account and oversee the roles and permissions. The City will add Aten as a supporting organization to its Pantheon account, which will provide access to Aten's developers. Each Aten team member will be pre-approved by the City's Chief Information Officer, or their delegate, to have this access, and will receive a unique Pantheon user ID and password intended for their

	own use only. The Aten team members will not share, disclose, record (written & verbal) or reuse their Pantheon credentials. The level of access granted to an individual will be the minimum required to perform their assigned role and responsibilities. Once the City signs a contract with Pantheon, Aten will support the City's account set-up and work to establish it to complement the recommended design for the City's website.
Translation Services	Aten will work with the City to identify the best translation tool to be hosted on the website. Aten will ensure that the design team will produce materials that can easily be translated by incorporating this tool into the final work product. The City will pay for the translation service (if recommended) and ensure that Aten has access to any paid account services for design purposes.
Additional Services (June 2023)	• Finalizing sitemap and content model • Technical plan, backlog building MVP sizing • Content mapping existing sitemap to new sitemap and content model

RESPONSIVE & ACCESSIBLE DESIGN Up to 120 Hours of Budgeted time *Started February 2023*	**$19,800** Budget Total
June 2023 - Add additional 20 Hours of project time	June 2023 Additional Budget Total: **$3,300**
Design Exploration	Aten will use research from the discovery phase and guidance by Oxnard's brand guidelines to establish a foundation for the design. Aten will look at typography, use of color and imagery, and specific user interface elements – outside the confines of a specific Layout. Aten will also ensure ADA compliance during design exploration and also consider the need for the use of a Spanish translation tool to support the final design during the exploration phase

	The Aten team will also incorporate any third-party apps and widgets into the design recommendations. The City will pay for third party apps and widgets licensing costs.
Design Direction	Aten will expand on the initial Design Exploration, establish typographic scale, visual hierarchy, navigation patterns, and grid structure with full-fidelity page mockups for key pages in both desktop and mobile. The City's Project Manager (Communications Manager) will review and provide edits and changes recommended by the City Manager. The City Manager will approve the final wireframe structure.
Design System	With design established, Aten will develop a design system and style guide that clearly documents design direction and provides a guideline for extending design throughout your website. At this time, the Aten team will discuss progress with the City's current task of identifying the number of pages to migrate content to the new system. The City will identify an estimated update of content that needs to be migrated during this phase. The City's Project Manager (Communications Manager) will review and provide edits and changes recommended by the City Manager. The City Manager will approve the final wireframe structure. Any changes to the design and its system that results in a change order by Aten to the project must be approved by the City's Project Manager (Communications Manager), or their delegate.
ADA Compliance Review	Aten will ensure the proposed design meets ADA compliance and addresses the best practices released by the U.S. Department of Justice in March 2022 https://beta.ada.gov/web-guidance/
Additional Services (June 2023)	• Design comps for 6 additional pages • Internal strategist support & collaboration during the remainder of the design phase

Agile Development Sprints Up to 550 Hours of Budgeted time *Started April 2023*	**$90,750** Budget Total
June 2023 - Add additional 45 hours of project time	June 2023 Additional Budget Total: **$7,425**

Planning	At the outset of each sprint, each user story is clearly documented, along with estimates and acceptance criteria developed by Aten and approved by the City's Project Manager (Communications Manager).
Daily Standup	The Aten team follow Agile Scrum methodologies and host daily standups to review yesterday's progress, confirm tickets on-deck for today, and identify any blockers. Aten will provide weekly project status updates, either via video meetings or email, to identify progress and any challenges that may need to be addressed in the week ahead. Aten will clearly define what the City needs to provide and approve during these weekly status updates in order to ensure that the project remains on time and on budget.
Cross-Functional Development	The Aten team will follow modern best practices for backend and frontend web development. More specifically, Aten will adhere to community coding standards and follow SMACSS modular development guidelines for CSS.
QA /Testing	Each ticket moves through two distinct QA stages in the workflow: one for internal review (Aten), another for client Approval (City). Aten will ensure during this stage that the website is functional tested for quality assurance for items including: • Browser support • Operating systems • Screen resolutions including responsive for mobile • Assistive technologies • Color blindness • Text sizing

	The City's Project Manager (Communications Manager) will review and provide edits and changes prior to approval.
Retrospectives	Retros are an important component of Agile. We invite clients to fully participate in each retrospective, an open conversation about what worked well and what could be improved for each sprint. The City's Project Manager (Communications Manager) will participate and invite any additional staff members (as needed) to participate in retrospectives at the end of each sprint.

TRAINING & LAUNCH Up to 60 Hours of Budgeted time *Estimated Fall/Winter 2023-24*	**$9,900** Budget Total
Launch Preparation	The Aten team will polish development features, crawl the site for 404 errors, and conduct final performance tests. The Aten team will provide high-level recaps to the City's project manager during this two-week period to report both progress and/or significant issues that arose the steps the team took to mediate them.
Finalize Training Documentation	Aten will provide: • documentation in the form of inline help text, shared documents, and video capture will be created and shared with the City during all phases of development. Aten will curate and organize documentation so it can be easily understood by content editors that only occasionally use the Wordpress authoring interface.
Training Workshop	Relevant Aten personnel will conduct training sessions to help so the City's core web team and regular content editors understand the new system well enough to provide training to future editors.
Launch	Upon the City Manager or delegate's formal launch written approval, Aten will provide final deployment to production and perform DNS switch.

	Aten recommends a preview launch (e.g. https://preview.oxnard.org/), which allows the City to show the site to residents and businesses without replacing the current website. This allows the Aten team to continue to work in partnership with the City to ensure a smooth transition from the old website to the new. Aten will work with the web host provider to address any site outages. Aten operates from 8 a.m.–5 p.m. MT, Monday–Friday, has a same day response SLA, and will provide a timeline to resolution within one business day. For major outages, the City will have multiple direct contacts with Aten, including video and phone contacts, to ensure prompt response and service.
Warranties and Representations	Aten will provide post-site launch warranty support for a 30-day period starting on the first day that the City's new website is available to the public and ending on the 30th calendar day. Post-launch warranty services are limited to site functionality that fails to perform as designed, agreed upon, tested, and accepted by the City during the implementation. At the conclusion of the post-launch warranty period, at the City's request, Aten will refresh the Pantheon hosted development and test environments using a current copy of the production site. Prior to refreshing, an archive backup of the original development and test environments will be taken and saved with a retention period defined by City. All post-launch production changes made by Aten will adhere to the City's change control process.

ON CALL SERVICES *Estimated Fall/Winter 2023-24*	Hourly rate $165
Post-Site Launch	Aten will be available for post-site launch support as needed to work through various design needs and City requests for services.

SECOND AMENDMENT TO PROFESSIONAL SERVICES

This Second Amendment ("Second Amendment") to the Professional Services ("Agreement") is made and entered into in the County of Ventura, State of California, this _____ day of _____, 2023, by and between the City of Oxnard, a municipal corporation ("City"), and Aten Design Group, Inc., a Colorado Corporation ("Consultant"). This Second Amendment amends the Agreement entered into on June 13, 2022, by City and Aten. The Agreement previously has been amended on June 20, 2023 by a First Amendment.

City and Consultant agree as follows:

1. The references to the "Scope of Services Exhibit A-1" everywhere that term is listed both on the Cover Page of the Agreement and in the Agreement are hereby amended to "Scope of Services Exhibit A-2." The "Scope of Services Exhibit A-1" is hereby disincorporated; instead, the "Scope of Services Exhibit A-2" is attached hereto and incorporated herein by this reference.

2. In Section 6 of the Cover Page of the Agreement, the amount "$200,000" is deleted and replaced with "$316,140".

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

[Signatures on next page]

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

CITY OF OXNARD

☐John C. Zaragoza, Mayor[1] Date

☐Jennifer Yates, Purchasing Agent [3]

ATTEST:

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

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney (always required) Date 6/20/2023

ATEN DESIGN GROUP, INC., a Colorado Corporation

Justin Toupin, CEO[2], Date

, [4] Date

[1] The City Council must authorize and the Mayor must execute any agreement over $200,000.

[2]

[3] The Purchasing Agent may execute any authorized agreement up to $200,000.

[4] 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 A-2

Strategy and User Research Up to 100 Hours of Budgeted time *Started August 2022*	**$16,500** Budget Total
June 2023 - Add additional 5 Hours of project time	June 2023 Additional Budget Total: **$825**
Discovery	Aten will review extant discoveries leading up to this project. Aten will conduct ongoing collaborative research and exploration to fully understand the history of the project as well as core challenges and opportunities for the City of Oxnard's website. The City will provide Aten interviews with appropriate staff members in the IT and Communications Department to provide background on the website. The City will provide Aten with view-only access to 1) the backend of the current website and 2) Matomo website analytics account in order for Aten to provide a robust analysis that will be presented to the city.
Stakeholder Surveys	Aten will create questionnaires for the City to distribute in order to help provide baseline guidance on the community's wants / needs. This will include both a paper and digital format. Aten will collect, quantify and analyze the questionnaire results as part of their research for the City that will be presented to the City. These findings will drive design discussions and decisions.
Personas	Aten will develop key personas based on Focus Group findings and other documentation. City will review, edit and approve these personas.
Task Analysis	Once personas are defined, the teams at Aten will define the most common and impactful real-world tasks those users will perform on the website.

	Aten will use this list as a framework for prioritizing information architecture work. The City's Project Manager (Communications Manager) will review and provide edits and changes recommended by the City Manager to these task lists.
Technical Audit	In order to have a complete understanding of the functionality, and user journeys of the City's website, Aten will conduct platform walkthroughs, ongoing collaborative research, and exploration to fully understand the core development challenges and opportunities ahead. Aten will also research and recommend the best way to produce Spanish translation services for all content on the City's website. The Aten team will also review any third-party apps and widgets that the City uses on its current website and provide recommendations for accommodating these services (or replacing them) in the new web design. Aten will also review the backend materials on the current City website, and propose an action plan for the City to migrate selected content to the newly designed website. This includes identifying old content and raising the recommendation for archiving and/or removing content that has not been touched in years.

Workshops Up to 60 Hours of Budgeted time *September - October 2022*	**$9,900** Budget Total
Workshops (4)	Aten's strategy and design workshops fall into three categories: • Discovery Workshops • User Empathy Workshops • Design Workshop At least four workshops/exercises will be scheduled by mutual agreement during the engagement. For more information on Aten's workshops, please see page 41 of the technical proposal.

INFORMATION ARCHITECTURE Up to 140 Hours of Budgeted time *Started December 2022*	**$23,100** Budget Total
June 2023 - Add additional 112 hours of project time	June 2023 Additional Budget Total: **$18,480**
July 2023 - Add additional 34 hours of project time	July 2023 Additional Budget Total: **$5,610**
Navigation Structure	Based on goals and users needs, Aten will clearly document the intended website structure and interactions in a hierarchical Sitemap. The City's Project Manager (Communications Manager) will review and provide edits and changes recommended by the City Manager. The City Manager will approve the final navigation structure.
Wireframes	Aten will provide simple, gray-box wireframes that will suggest content hierarchy and high-level layout, guiding design and development efforts. The City's Project Manager (Communications Manager) will review and provide edits and changes recommended by the City Manager. The City Manager will approve the final wireframe structure.
Technical Plan	In collaboration with the development team, Aten will create an effective technical approach for the project. This plan will cover content generation and entry, Wordpress data structures (post types), user roles & permissions, user workflows, and define website features as well as technical approach. The approved migration of content will also be featured in this plan. Aten will assign roles to both the City staff and its internal team to ensure content migration is done in an easy manner with clear direction provided to all parties involved in the process. This will provide City staff with a clear roadmap on how to prioritize information that needs to be migrated and complete it in a manner that is clearly and concisely understood by the Aten team.

	Both Aten and the City participate in backlog grooming during this phase. It will be reviewed and reprioritized throughout development. The City's Project Manager (Communications Manager) will review and provide edits and changes recommended by the City's Chief Information Officer, and will secure final approvals by the City Manager. The approved technical plan will be used to build a sprint plan for all development phases.
Scope Review	Informed by collaborative discovery and the requirements in the Scope of Work, Aten will create a prioritized list of requirements and granular tasks for their design team to complete. This is a budget control checkpoint and will mitigate risk throughout development. The City's Project Manager (Communications Manager) will review and provide edits and changes recommended by the City's Chief Information Officer, and will secure final approvals by the City Manager.
Web Hosting Service Provider	Aten will work with the City to establish the Account Support Tier and Hosting Plan with Pantheon. Aten will establish direct communication between the City Manager's Office, its Chief Information Officer/IT Department and Pantheon. Aten will create a WordPress instance on the Pantheon platform. Aten will also provide guidance to the City on when to commence the contract with Pantheon and will consider the City's 8-week procurement timeframe in order to be cost-effective with the website development budget. The City will manage the Pantheon account and oversee the roles and permissions. The City will add Aten as a supporting organization to its Pantheon account, which will provide access to Aten's developers.

	Each Aten team member will be pre-approved by the City's Chief Information Officer, or their delegate, to have this access, and will receive a unique Pantheon user ID and password intended for their own use only. The Aten team members will not share, disclose, record (written & verbal) or reuse their Pantheon credentials. The level of access granted to an individual will be the minimum required to perform their assigned role and responsibilities. Once the City signs a contract with Pantheon, Aten will support the City's account set-up and work to establish it to complement the recommended design for the City's website.
Translation Services	Aten will work with the City to identify the best translation tool to be hosted on the website. Aten will ensure that the design team will produce materials that can easily be translated by incorporating this tool into the final work product. The City will pay for the translation service (if recommended) and ensure that Aten has access to any paid account services for design purposes.
Additional Services (June 2023)	• Finalizing sitemap and content model • Technical plan, backlog building MVP sizing • Content mapping existing sitemap to new sitemap and content model
Additional Services (July 2023)	• Creating backend guides to page naming and creating new pages • Developing guidelines for managing content

RESPONSIVE & ACCESSIBLE DESIGN Up to 120 Hours of Budgeted time *Started February 2023*	**$19,800** Budget Total
June 2023 - Add additional 20 Hours of project time	June 2023 Additional Budget Total: **$3,300**
Design Exploration	Aten will use research from the discovery phase and guidance by Oxnard's brand guidelines to establish a foundation for the design.

	Aten will look at typography, use of color and imagery, and specific user interface elements – outside the confines of a specific Layout. Aten will also ensure ADA compliance during design exploration and also consider the need for the use of a Spanish translation tool to support the final design during the exploration phase The Aten team will also incorporate any third-party apps and widgets into the design recommendations. The City will pay for third party apps and widgets licensing costs.
Design Direction	Aten will expand on the initial Design Exploration, establish typographic scale, visual hierarchy, navigation patterns, and grid structure with full-fidelity page mockups for key pages in both desktop and mobile. The City's Project Manager (Communications Manager) will review and provide edits and changes recommended by the City Manager. The City Manager will approve the final wireframe structure.
Design System	With design established, Aten will develop a design system and style guide that clearly documents design direction and provides a guideline for extending design throughout your website. At this time, the Aten team will discuss progress with the City's current task of identifying the number of pages to migrate content to the new system. The City will identify an estimated update of content that needs to be migrated during this phase. The City's Project Manager (Communications Manager) will review and provide edits and changes recommended by the City Manager. The City Manager will approve the final wireframe structure. Any changes to the design and its system that results in a change order by Aten to the project must be approved by the City's Project Manager (Communications Manager), or their delegate.
ADA Compliance Review	Aten will ensure the proposed design meets ADA compliance and addresses the best practices released by the U.S. Department of Justice in March 2022 https://beta.ada.gov/web-guidance/
Additional Services	• Design comps for 6 additional pages

(June 2023)	• Internal strategist support & collaboration during the remainder of the design phase

Agile Development Sprints Up to 550 Hours of Budgeted time *Started April 2023*	**$90,750** Budget Total
June 2023 - Add additional 45 hours of project time	June 2023 Additional Budget Total: **$7,425**
July 2023 - Add additional 428 hours of project time	July 2023 Additional Budget Total: **$70,620**
Planning	At the outset of each sprint, each user story is clearly documented, along with estimates and acceptance criteria developed by Aten and approved by the City's Project Manager (Communications Manager).
Daily Standup	The Aten team follow Agile Scrum methodologies and host daily standups to review yesterday's progress, confirm tickets on-deck for today, and identify any blockers. Aten will provide weekly project status updates, either via video meetings or email, to identify progress and any challenges that may need to be addressed in the week ahead. Aten will clearly define what the City needs to provide and approve during these weekly status updates in order to ensure that the project remains on time and on budget.
Cross-Functional Development	The Aten team will follow modern best practices for backend and frontend web development. More specifically, Aten will adhere to community coding standards and follow SMACSS modular development guidelines for CSS.
QA /Testing	Each ticket moves through two distinct QA stages in the workflow: one for internal review (Aten), another for client Approval (City). Aten will ensure during this stage that the website is functional tested

	for quality assurance for items including: • Browser support • Operating systems • Screen resolutions including responsive for mobile • Assistive technologies • Color blindness • Text sizing The City's Project Manager (Communications Manager) will review and provide edits and changes prior to approval.
Retrospectives	Retros are an important component of Agile. We invite clients to fully participate in each retrospective, an open conversation about what worked well and what could be improved for each sprint. The City's Project Manager (Communications Manager) will participate and invite any additional staff members (as needed) to participate in retrospectives at the end of each sprint.
Additional Services (July 2023)	• Tracking legal requirements • Ad-hoc support from the Strategist throughout development • iframe embed format for multiple maps • Additional post types, beyond original of 10 in scope • Sitewide notification/alert functionality • User role & permission management sitewide • Custom plugins for community development department • Estimated hours for custom plugins for other departments • Configure New Relic on Pantheon • Additional time to advise and document security and tech requirements as requested by City's Chief Technology Officer • Additional accessibility & QA work needed based on expanded scope of development

TRAINING & LAUNCH Up to 60 Hours of Budgeted time *Estimated Fall/Winter 2023-24*	**$9,900** Budget Total
Launch Preparation	The Aten team will polish development features, crawl the site for 404 errors, and conduct final performance tests. The Aten team will provide high-level recaps to the City's project manager during this two-week period to report both progress and/or significant issues that arose the steps the team took to mediate them.

Finalize Training Documentation	Aten will provide: ● documentation in the form of inline help text, shared documents, and video capture will be created and shared with the City during all phases of development. Aten will curate and organize documentation so it can be easily understood by content editors that only occasionally use the Wordpress authoring interface.
Training Workshop	Relevant Aten personnel will conduct training sessions to help so the City's core web team and regular content editors understand the new system well enough to provide training to future editors.
Launch	Upon the City Manager or delegate's formal launch written approval, Aten will provide final deployment to production and perform DNS switch. Aten recommends a preview launch (e.g. https://preview.oxnard.org/), which allows the City to show the site to residents and businesses without replacing the current website. This allows the Aten team to continue to work in partnership with the City to ensure a smooth transition from the old website to the new. Aten will work with the web host provider to address any site outages. Aten operates from 8 a.m.–5 p.m. MT, Monday–Friday, has a same day response SLA, and will provide a timeline to resolution within one business day. For major outages, the City will have multiple direct contacts with Aten, including video and phone contacts, to ensure prompt response and service.
Warranties and Representations	Aten will provide post-site launch warranty support for a 30-day period starting on the first day that the City's new website is available to the public and ending on the 30th calendar day. Post-launch warranty services are limited to site functionality that fails to perform as designed, agreed upon, tested, and accepted by the City during the implementation. At the conclusion of the post-launch warranty period, at the City's

	request, Aten will refresh the Pantheon hosted development and test environments using a current copy of the production site. Prior to refreshing, an archive backup of the original development and test environments will be taken and saved with a retention period defined by City. All post-launch production changes made by Aten will adhere to the City's change control process.

Project Management July 2023 - Add additional 161 Hours of project time to support additional services	July 2023 Additional Budget Total: **$26,565**
	• Client (Oxnard) & internal meetings + project management (25% of total)

Contingency July 2023 - Add additional 81 Hours of project time	July 2023 Additional Budget Total: **$13,365**
	• Contingency Budget (10% of total)

ON CALL SERVICES *Estimated Fall/Winter 2023-24*	Hourly rate $165
Post-Site Launch	Aten will be available for post-site launch support as needed to work through various design needs and City requests for services.

FINANCE AND GOVERNANCE COMMITTEE
AGENDA REPORT

REPORTS
AGENDA ITEM NO. D.4

DATE: June 27, 2023

TO: Finance & Governance Committee

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

SUBJECT: Whistleblower Activity Report. (10 Minutes)

RECOMMENDATION

That the Finance and Governance Committee receive and file an update on the whistleblower matters.

Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/EJauyVp5m6s

BACKGROUND

The City Council of the City of Oxnard adopted a whistleblower hotline policy on April 5, 2016. That policy states that the City will take all appropriate steps to thoroughly evaluate any allegation of improper governmental action that is brought to its attention. An "improper governmental action" is defined as "any activity by a local agency or employee that is undertaken in the performance of the employee's official duties, including activities deemed to be outside the scope of his or her employment, that is in violation of any local, state, or federal law or regulation relating to corruption, malfeasance, bribery, theft of government property, or willful omission to perform duty, is economically wasteful, or involves gross misconduct." The policy further states that the City shall establish a whistleblower hotline to receive and investigate allegations of possible City fraud, waste and abuse. These complaints must remain confidential, and the identity of the complainant may not be revealed without the permission of the complainant, except to an appropriate law enforcement agency conducting a criminal investigation.

Upon receipt of a complaint, the Internal Auditor may conduct an investigation into the facts alleged in the complaint to determine whether an improper governmental action has occurred. The Internal Audit Department will first screen the allegation to determine merit and relevance, and then the possible risk to the City, among the following three options:

1. **High Priority** - Matters that are considered high priority could include: potential loss to the City of more than $75,000, high level management involvement, collusion of multiple wrongdoers, major department-wide issues, or the need for immediate action to stop a potential major issue.

2. **Medium Priority** - Matters that are considered medium priority could include: potential loss to the City of more than $25,000, include abuse of authority, medium-to-low-level employee involvement, minor department-wide issues, or patterns of small issues that could be significant cumulatively.

3. **Low Priority** - Matters that are considered low priority could include: potential loss to the City of up to $25,000, comprise of isolated instances of time abuse, wasteful practices that could lead to efficiencies if corrected, or allegations that lack credibility and evidence.

The Internal Auditor should investigate high priority matters with the most urgency, then medium priority, and finally, low priority.

On June 27, 2017, the City Council awarded a contract to Price Paige and Company to be our Internal Auditor. This included staffing the whistleblower hotline, preparing a risk analysis, and auditing particular programs that the Council identified. As a part of that engagement, Price Paige's representative came before the Finance and Governance Committee every six months with a whistleblower hotline status update.

DISCUSSION

Standing up a New System

On June 6, 2022, Henry Oum of Price Paige informed City staff that, "due to capacity constraints," Price Paige would not be able to continue to monitor the whistleblower program. Staff later learned that this was not just a Price Paige capacity constraint; in fact, the industry had shifted away from staffing whistleblower hotlines to automated systems.

Thus, replacing Price Paige required not just a request for proposals and award of contract, which ultimately went to Syntrio, Inc. on November 1, 2022. Staff would then need to work with the selected new vendor to configure and test an automated system to receive whistleblower complaints. Staff also had to determine a new relationship with our current Internal Auditor, which is Vasquez & Company, such that Syntrio could communicate whistleblower hotline complaints directly to Vasquez without going through staff, and such that Vasquez would immediately investigate high and medium priority complaints.

The result is our current system, which went live on April 11, 2023. Employees or residents may file a complaint online at www.clearviewconnects.com, by calling 844-964-2544, or by mail at P.O. Box 11017, Toronto, Ontario, M1E 1N0. All complaints are routed directly to Vasquez for its determination within 24 hours of receipt that the complaint could have merit and relevance. If that is possible, Vasquez has another 24 hours to determine whether to rank the priority of the complaint high, medium or low (as defined above). Finally, Vasquez has yet another 24 hours to notify City staff that 1) Vasquez has received a high or medium priority complaint and will be investigating the matter immediately, or 2) Vasquez has received a low priority complaint and needs to make a mutual determination with staff as to whether that complaint should be investigated. Any City staff that is implicated in that complaint does not receive any such notice of an investigation. Vasquez then must complete the investigation, prepare a report and present that report to the Finance and Governance Committee with thoroughness and speed, updating staff on the status of each such investigation at least weekly.

Whistleblower Activity Report

The following allegations and complaints were received during the period of June 6, 2022, through June 6, 2023:

Incident Number	Primary Type of Allegation	Source of Submission	Priority	Current Status
2022-8-29	Waste/Abuse	Website	N/A	Deemed non-fiscal or City related.
2022-8-31	Violation of Laws, Regulations, Policies and Procedures	Website	N/A	Deemed non-fiscal or City related.
2022-9-6(1)	Violation of Laws, Regulations, Policies and Procedures	Website	N/A	Deemed non-fiscal or City related.
2022-9-6(2)	Violation of Laws, Regulations, Policies and Procedures	Website	N/A	Deemed non-fiscal or City related.
2022-9-8	Violation of Laws, Regulations, Policies and Procedures	Website	N/A	Deemed non-fiscal or City related.
Online system goes live (on April 11, 2023)				
10-7395490	Theft	Website	N/A	Deemed non-fiscal or City related.
10-3724398	Violation of Laws, Regulations, Policies and Procedures	Website	N/A	Deemed non-fiscal or City related.
10-4778857	Violation of Laws, Regulations, Policies and Procedures	Website	N/A	Deemed non-fiscal or City related.
10-3500562	Management/Supervisor	Website	N/A	Deemed non-fiscal or City related.
10-9286071	Violation of Laws, Regulations, Policies and Procedures	Website	N/A	Deemed non-fiscal or City related.
10-4494038	Violations of Laws, Regulations, Policies and Procedures	Website	N/A	Deemed non-fiscal or City related.

Whistleblower Activity Summary

Eleven total whistleblower reports were filed during this time period. Price Paige and Vasquez (depending on when the complaint was received) have deemed all of the allegations received during this time period unrelated to the City of Oxnard's fiscal matters. They have been forwarded to the appropriate department when follow-up steps from the related department were appropriate.

Since our current contract is for automated whistleblower hotline services, this no longer includes a presentation from the vendor to the Finance and Governance Committee. Thus, City Manager's office staff will be doing these presentations going forward. Should there be a complaint filed against the City Manager, Assistant City Manager or Deputy City Manager, the City Attorney's office will report to the Committee. Vasquez will report to the Committee directly when it investigates any report.

STRATEGIC PRIORITIES

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

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

FINANCIAL IMPACT

There is no financial impact.

Prepared by: Shiri Klima, Deputy City Manager, Annie Jensen, Project Manager

ATTACHMENTS

1. Presentation - Whistleblower

Whistleblower Activity Report

Finance & Governance Committee

June 27, 2023

Shiri Klima, Deputy City Manager

CITY OF OXNARD CALIFORNIA

RECOMMENDATION

That the Finance and Governance Committee receive and file an update on the whistleblower matters.

BACKGROUND

- The City Council of the City of Oxnard adopted a whistleblower hotline policy on April 5, 2016
- That policy states that the City will take all appropriate steps to thoroughly evaluate any allegation of **improper governmental action** that are brought to its attention
  - Improper governmental action: "any activity by a local agency or employee that is undertaken in the performance of the employee's official duties, including activities deemed to be outside the scope of his or her employment, that is in violation of any local, state, or federal law or regulation relating to corruption, malfeasance, bribery, theft of government property, or willful omission to perform duty, is economically wasteful, or involves gross misconduct"
- These complaints must remain confidential, and the identity of the complainant may not be revealed without the permission of the complainant, except to an appropriate law enforcement agency conducting a criminal investigation.

Assessment Categories

- High Priority – Potential loss to the City of more than $75,000, high level management involvement, collusion of multiple wrongdoers, major department-wide issues, or the need for immediate action to stop a potential major issue
- Medium Priority – Potential loss to the City of more than $25,000, include abuse of authority, medium-to-low-level employee involvement, minor department-wide issues, or patterns of small issues that could be significant cumulatively
- Low Priority – Potential loss to the City of up to $25,000, comprise of isolated instances of time abuse, wasteful practices that could lead to efficiencies if corrected, or allegations that lack credibility and evidence

DISCUSSION

- On June 6, 2022, Henry Oum of Price Paige informed City Staff that, "due to capacity constraints," Price Paige would no longer be able to continue to monitor the whistleblower program
- Staff later learned that, in fact, the industry had shifted away from staffing whistleblower hotlines to automated systems
- Thus, replacing Price Paige required not just a request for proposals and award contract, which ultimately went to Syntrio, Inc. on November 1, 2022
- Staff would then need to work with the selected new vendor to configure and test an automated system to receive whistleblower complaints
- Staff also had to determine a new relationship with current Internal Auditor (Vasquez & Company), such that Syntrio could communicate whistleblower hotline complaints directly to Vasquez without going through staff, and such that Vasquez would immediately investigate high and medium priority complaints
- The result is our current system, which went live on April 11, 2023

COMPLAINTS FROM 6/6/22-6/6/23

Incident Number	Primary Type of Allegation	Source of Submission	Priority	Current Status
2022-8-29	Waste/Abuse	Website	N/A	Deemed non-fiscal or City related
2022-8-31	Violation of Laws, Regulations, Policies and Procedures	Website	N/A	Deemed non-fiscal or City related
2022-9-6(1)	Violation of Laws, Regulations, Policies and Procedures	Website	N/A	Deemed non-fiscal or City related
2022-9-6(2)	Violation of Laws, Regulations, Policies and Procedures	Website	N/A	Deemed non-fiscal or City related
2022-9-8	Violation of Laws, Regulations, Policies and Procedures	Website	N/A	Deemed non-fiscal or City related

COMPLAINTS FROM 6/6/22-6/6/23 (CONTINUED)

Incident Number	Primary Type of Allegation	Source of Submission	Priority	Current Status
10-7395490	Theft	Website	N/A	Deemed non-fiscal or City related
10-3724398	Violation of Laws, Regulations, Policies and Procedures	Website	N/A	Deemed non-fiscal or City related
10-4778857	Violation of Laws, Regulations, Policies and Procedures	Website	N/A	Deemed non-fiscal or City related
10-3500562	Management/ Supervisor	Website	N/A	Deemed non-fiscal or City related
10-9286071	Violation of Laws, Regulations, Policies and Procedures	Website	N/A	Deemed non-fiscal or City related
10-4494038	Violation of Laws, Regulations, Policies and Procedures	Website	N/A	Deemed non-fiscal or City related

RECOMMENDATION

That the Finance and Governance Committee receive and file an update on the whistleblower matters.

CITY OF
OXNARD
CALIFORNIA

QUESTIONS