

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



AGENDA
OXNARD CITY COUNCIL
OXNARD COMMUNITY DEVELOPMENT COMMISSION SUCCESSOR AGENCY
OXNARD FINANCING AUTHORITY
OXNARD HOUSING AUTHORITY

Meeting Location: Council Chambers, 305 West Third Street

July 18, 2023

Closed Session - 5:00 PM

Regular Meeting - 6:00 PM

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

1. Dial Phone Number: (888) 475-4499
2. Enter Meeting ID: 843 3033 3812
3. Passcode: 358396

If you wish to speak during public comments or a particular item on the agenda, please sign-on by following the zoom call-in steps listed above. Once the presiding officer calls for public speakers, press *9 to raise your hand to inform the City Clerk you would like to speak during the public speaking section for that particular item on the agenda, while in the zoom waiting room. Press *6 when asked to unmute. Listen to the instructions provided virtually on the phone while on hold in the zoom waiting room. Please note that there is a slight time delay when viewing the meeting via television.

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

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

The public may view the meeting from home on Spectrum channel 10, Frontier channel 35, or YouTube at [Youtube.com/oxnardnews](https://www.youtube.com/oxnardnews). Video recordings of the meeting are typically available online following the meeting at the City's website at www.oxnard.org/city-meetings.

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

YOU MAY PARTICIPATE IN THE MEETING IN THE FOLLOWING WAYS:

1. ATTEND THE MEETING AT THE LOCATION LISTED ABOVE: Submit a speaker card to the City Clerk.
2. EMAIL COMMENTS OR SIGN UP TO SPEAK REMOTELY BEFORE THE MEETING
 - a. Submit a request to speak 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.

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)

3. PROVIDE PUBLIC COMMENT REMOTELY DURING THE MEETING

- a. Follow Zoom details listed above.
- b. Public comments on agenda items will be taken following the announcement of the item. After the item is announced, members of the public may register or otherwise be recognized for the purpose of providing public comment.

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

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

A. ROLL CALL, POSTING OF AGENDA

THE FOLLOWING LEGISLATIVE BODIES ARE MEETING: City Council
CONSIDERATION OF TELECONFERENCE PARTICIPATION PURSUANT TO ASSEMBLY BILL 2449:

During this meeting, Councilmember Teran will be participating remotely from the following location:
Comfort Suites (Business Center), 210 E. Acequia Avenue, Visalia, CA 93291.

B. PUBLIC COMMENTS ON CLOSED SESSION ITEMS

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

C. CLOSED SESSION

1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION (Government Code section 54956.9(d)(2))
Based on existing facts and circumstances, there is significant exposure to litigation against the City in one potential case regarding the claim filed by Blois Construction Corporation regarding a contract dispute for the Hueneme Road Recycled Water Pipeline Project.
Legislative Body: City Council
2. CONFERENCE WITH REAL PROPERTY NEGOTIATORS – (Government Code section 54956.8)
Property: Southwest corner of Pleasant Valley Road and Saviers Road (APN 222-0-102-010)
Agency Negotiator: Michael L. Wolfe, Public Works Director and Hamner, Jewel & Associates
Negotiating Party: Jose Garay
Under Negotiation: Price and terms of payment
Legislative Body: City Council
3. CONFERENCE WITH REAL PROPERTY NEGOTIATORS – (Government Code section 54956.8)
Property: Northeast corner of Thomas Avenue and Saviers Road (APN 219-0-031-065)
Agency Negotiator: Michael L. Wolfe, Public Works Director and Hamner, Jewel & Associates
Negotiating Party: Yong Duk Lee & Soo Jung Lee
Under Negotiation: Price and terms of payment
Legislative Body: City Council

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D. OPENING CEREMONIES

Pledge of allegiance to the flag of the United States.

E. CEREMONIAL ITEMS

1. SUBJECT: Presentation of Commendations to Ella Ochoa for Winning the 2023 National High School Mock Trial Championship as the best courtroom artist and to Monica Adrian for her years of dedication to the Mock Trials Program.
2. SUBJECT: Presentation of a Resolution Commending Maria Herrera for Thirty-Eight Years of Extemporaneous Service to the City of Oxnard.
3. SUBJECT: Update by Oxnard-Ocotlan Sister Cities Committee Visitation.

F. 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.

G. REPORT OF CITY MANAGER/EXECUTIVE DIRECTOR/SECRETARY

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

1. City Manager Department

SUBJECT: Local Government Fun Fact: Comparative Cities Demographics.

RECOMMENDATION: That the Public and City Council receive a City Manager discussion about Oxnard's statistics as compared with other cities in the region.

Legislative Body: City Council

Contact: Alexander Nguyen, (805) 385-7430

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

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

I. REVIEW OF INFORMATION/CONSENT AGENDA

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

J. PUBLIC COMMENTS ON INFORMATION/CONSENT AGENDA

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

K. INFORMATION/CONSENT AGENDA

1. City Clerk Department

SUBJECT: Approval of Minutes.

RECOMMENDATION: That the City Council approve the minutes of the June 20, 2023 regular meeting as presented.

Legislative Body: City Council

Contact: Rose Chaparro, (805) 385-7805

2. Public Works Department

SUBJECT: Public Project Construction Agreement No. 32400023 with Pacific Builders & Roofing, Inc., dba WSP Roofing, for the Performing Arts Community Center Roof Replacement Project (REBID), Specification No. PW 23-34R.

RECOMMENDATION: That the City Council approve and authorize:

1. \$975,377.63 in Project funds for the Performing Arts Community Center Roof Replacement Project (Project No. C2248);
2. The Mayor to execute an Agreement with Pacific Builders & Roofing, Inc., dba WSP Roofing in the amount of \$750,290.48 for the Project;
3. A contingency amount of \$150,058.10 with Pacific Builders & Roofing, Inc., dba WSP Roofing for a total not to exceed value of \$900,348.58 for the Project; and
3. A Project allocation amount of \$75,029.05 for engineering, inspection, survey and project management for the Project.

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

Legislative Body: City Council

Contact: Michael Wolfe, (805) 385-8055

3. Public Works Department

SUBJECT: Public Project Agreement 32400022 with Blackpointe Group Construction and Management, Inc. for Community Center Park East Playground Improvement Project (Rebid #3), Specification No. PW 22-117R3.

RECOMMENDATION: That the City Council approve and authorize:

1. A total of \$295,024.01 in Project funds for the Community Center Park East Playground Improvement Project (Rebid #3), Specification No. PW 22-117R3;
2. The Mayor to Execute an Agreement with Blackpointe Group Construction and Management, Inc. in the amount of \$245,854.01 for the Project;
2. A Project contingency amount of \$24,585.00 (10%) with Blackpointe Group Construction and Management, Inc. for a total not to exceed value of \$270,439.01 for the Project; and
3. A Project allocation amount of \$24,585.00 for engineering, inspection, survey and project management for the Project.

(This item did not originate in Committee as this is a capital improvement project specifically listed

in the City's Capital Improvement Program budget, which was previously approved by the City Council.)

Legislative Body: City Council

Contact: Michael Wolfe, (805) 385-8055

4. Public Works Department

SUBJECT: Grant Application Resolution for FY 2023 Consolidated Appropriations Act Community Project Funding Application.

RECOMMENDATION: That the City Council adopt a resolution:

1. Authorizing the City Manager or designee to submit a grant application to the U.S. Environmental Protection Agency for \$2,846,400 (no local match) in Community Project Funding for the City of Oxnard Water Pipeline Replacement Project;
2. Authorizing the City Manager or designee to execute grant agreements;
3. Authorizing the Finance Director or designee to submit financial reports and grant claims and approve budget appropriations for the use of the grant funds; and
4. Authorizing the Public Works Director or designee to submit non-financial reports.

(This item did not originate in Committee.)

Legislative Body: City Council

Contact: Michael Wolfe, (805) 385-8055

5. Public Works Department

SUBJECT: Third Amendment to Lease Agreement A-5300 with Cingular Wireless.

RECOMMENDATION: That the City Council approve the Third Amendment to the "Roof Top" Revenue Lease Agreement A-5300, for a five year term with one option term, with Cingular Wireless, for a cell tower located at 300 W. 3rd Street in Oxnard.

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

Legislative Body: City Council

Contact: Michael Wolfe, (805) 385-8055

6. Police Department

SUBJECT: Agreement for School Resource Officer (SRO) Services to the Oxnard Union High School District (OUHSD).

RECOMMENDATION: That the City Council approve and authorize the City Manager to execute a cost-sharing agreement between the City of Oxnard and the Oxnard Union High School District, for a three-year period, in the amount of \$778,309 for Police School Resource Officer (SRO) Services.

Legislative Body: City Council

Contact: Jason Benites, (805) 385-7624

7. City Manager Department

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

RECOMMENDATION: 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.

(Finance and Governance Committee approved 3-0 on June 27, 2023.)

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Legislative Body: City Council

Contact: Alexander Nguyen, (805) 385-7430

8. Finance Department

SUBJECT: Adopt Resolution Declaring the Intent of the City to be Reimbursed from Potential Bond Proceeds for Expenditures Made Towards Street and Alleyway Improvements.

RECOMMENDATION: That the City Council approve and authorize a resolution declaring the intent of the City to be reimbursed for certain capital expenditures from the proceeds of indebtedness.

Legislative Body: City Council

Contact: Javier Chagoyen-Lazaro, 805-385-5400

L. PUBLIC HEARINGS1. City Manager Department

SUBJECT: Public Meeting and Introduction of an Ordinance to Renew the Oxnard Tourism Marketing District. (10 minutes)

RECOMMENDATION: That the City Council:

1. Conduct the first Public Meeting to allow members of the public to provide comments on the renewal of the Oxnard Tourism Marketing District (OTMD); and
2. Approve the first reading by title only and waive further reading of an ordinance adding Sections 13-3 through 13-13 to Article 1.5 of Chapter 13 of the Oxnard City Code regarding the Oxnard Tourism Marketing District.

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

video: https://youtu.be/5Cm-NEzm_vc

Legislative Body: City Council

Contact: Ashley Golden, (805) 385-7478

M. REPORTS1. Public Works Department

SUBJECT: Grant Application Resolution for the Clean California Local Grant Program Cycle 2. (10 minutes)

RECOMMENDATION: That the City Council adopt a resolution:

1. Ratifying the submittal of a grant application to the California Department of Transportation (Caltrans) for \$3,534,000 (12.5% local match of \$442,000 from the Urban Greening Grant Fund) in Clean California Local Grant Program funds for the Campus Park Enhancement Project;
2. Authorizing the City Manager or designee to execute grant agreements;
3. Authorizing the Finance Director or designee to submit financial reports and grant claims and approve budget appropriations for the use of the grant funds; and
4. Authorizing the Public Works Director or designee to submit non-financial reports.

(This item did not originate in Committee.)

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

Legislative Body: City Council

Contact: Michael Wolfe, (805) 385-8055

2. Public Works Department

SUBJECT: Grant Applications Resolution for the Inflation Reduction Act – Urban and Community Forestry Grant Program. (10 minutes)

RECOMMENDATION: That the City Council adopt a resolution:

1. Ratifying the submittal of a grant application to the United States Department of Agriculture Forest Service for \$333,502.50 (1:1 local match of \$333,502.50) in Inflation Reduction Act – Urban and Community Forestry grant funds for the Oxnard Area ND Urban Forestry Project;
2. Ratifying the submittal of a grant application to the United States Department of Agriculture Forest Service for \$651,423 in Inflation Reduction Act – Urban and Community Forestry grant funds for the Oxnard Area D Urban Forestry Project;
3. Authorizing the City Manager or designee to execute the grant agreements, if awarded
4. Authorizing the Finance Director or designee to submit financial reports and grant claims and approve budget appropriations for the use of the grant funds; and
5. Authorizing the Public Works Director or designee to submit non-financial reports.

(This item did not originate in Committee.)

Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/rGiIAKP_OM0

Legislative Body: City Council

Contact: Michael Wolfe, (805) 385-8055

3. Public Works Department

SUBJECT: Public Project Agreement 32400005 with Chrisp Company for On-Call Street Striping and Marking Services, Specification No. PW 23-91. (10 minutes)

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute an Agreement with Chrisp Company in the amount not to exceed \$1,000,000 for a five-year term for On-Call Street Striping and Marking Services.

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

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/8YxxaTU5YDg>

Legislative Body: City Council

Contact: Michael Wolfe, (805) 385-8055

4. Finance Department

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

RECOMMENDATION: That the City Council:

1. 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
2. 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/6IncpNkW84s>

Legislative Body: City Council

Contact: Javier Chagoyen-Lazaro, 805-385-5400

5. Finance Department

SUBJECT: Agreement with ProcureAmerica to Provide Cost Reduction Services. (10 minutes)

RECOMMENDATION: That the City Council 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/itXFJbk2Ufo>

Legislative Body: City Council

Contact: Javier Chagoyen-Lazaro, 805-385-5400

N. ADJOURNMENT

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO.

THE CITY COUNCIL OF THE CITY OF OXNARD COMMENDS MARIA HERRERA FOR OVER 37 YEARS OF OUTSTANDING SERVICE TO THE CITY OF OXNARD.

WHEREAS, Maria Herrera has given over 37 years of exemplary service as an employee of the City of Oxnard; and

WHEREAS, Maria Herrera began her career with the City of Oxnard as a Student Trainee in the Summer Youth Training Program in 1985, thereafter promoted to Typist Clerk in March 27, 1987, thereafter promoted to Secretary II on March 14, 1991, thereafter promoted to Secretary III in July 1996, thereafter promoted to Administrative Assistant on August 1, 2016, and thereafter promoted to Administrative Services Coordinator/Support Supervisor in July 2022, and during that time s has accepted positions of increasing responsibility, scope, and challenge; and

WHEREAS, Maria Herrera received award recognitions for Performance and Achievement award on September 29, 1995 from the late Mayor Manuel Lopez, the Oxnard Leadership Academy on May 22, 1997, Satellite City Hall as a Spanish interpreter on July 25, 2002 and the Lemonwood Neighborhood Council on November 4, 2010 as a Spanish interpreter; and

WHEREAS, Maria Herrera partook in city committees such as Employee Ethics Training Sessions in 1993 and 1994, Employee Picnic Committee Member, August 2001, "Because We Care" Fund 9/11/2001 Donor, City's Leadership Development Team, and in March 2018 translated into Spanish the Voter Guide; and was selected as Planning Division Employee of the Quarter in October to December 1992 and the Redevelopment Employee of the Quarter in April to June 1994; and

WHEREAS, Maria Herrera, as a Administrative Services Coordinator/Support Supervisor, has exemplified leadership and sound judgment; and

WHEREAS, through her personal skills and commitment to her responsibilities, Maria Herrera has served as a key figure in maintaining and improving the library services provided within the City of Oxnard; and

WHEREAS, Maria Herrera will be sorely missed in City government and in the community.

NOW, THEREFORE, the City Council of the City of Oxnard does hereby resolve to commend Maria Herrera for 37 years and 10 months of outstanding service to the City of Oxnard and wishes her much luck and success in all future endeavors.

PASSED AND ADOPTED this 18th day of July 2023 by the following vote:

AYES:

NOES:

ABSENT:

John C. Zaragoza, Mayor

ATTEST:

APPROVED AS TO FORM:

Rose Chaparro
City Clerk

Stephen M. Fischer
City Attorney



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

DATE: July 18, 2023
TO: City Council
FROM: Rose Chaparro, City Clerk, (805) 385-7805, rose.chaparro@oxnard.org
SUBJECT: Approval of Minutes.

RECOMMENDATION

That the City Council approve the minutes of the June 20, 2023 regular meeting as presented.

BACKGROUND

Approval of Minutes.

STRATEGIC PRIORITIES

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

FINANCIAL IMPACT

There is no financial impact.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Rose Chaparro, City Clerk

ATTACHMENTS

1. MINUTES 06 20 2023 CC Regular Meeting

MINUTES
OXNARD CITY COUNCIL
Regular Meeting
June 20, 2023

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

At 6:01 p.m., Mayor John C. Zaragoza called to order the regular meeting of the Oxnard City Council, in the City Hall Council Chambers at 305 W. Third Street, Oxnard, California. The City Clerk called the roll and announced the posting of the agenda. Councilmembers Gabriela Basua, Councilmember Oscar Madrigal; Bert E. Perello, Gabriel (Gabe) Teran, Arthur Valenzuela Zavala, Mayor Pro Tem Bryan A. MacDonald, and Mayor John C. Zaragoza were present.

Councilmember Teran participated remotely from the following location: Hampton Inn Riverside Downtown (Business Center) located at 3505 Market Street, Riverside, CA 92501.

Housing Authority Commissioners Jose Andrade and Francisco Vega were absent.

Staff members present in person were Alexander Nguyen, City Manager; Ashley Golden, Assistant City Manager; Shiri Klima, Deputy City Manager; Stephen M. Fischer, City Attorney; Kenneth Rozell, Chief Assistant City Attorney; Jason Benites, Police Chief; Alexander Hamilton, Fire Chief; Michael Wolfe, Public Works Director; Brian Yanez, Assistant Public Works Director; Steve Howlett, Assistant Public Works Director; Joseph Marcinko, Assistant Public Works Director; Omar Castro, Water Division Manager; Eric Zetz, Environmental Resources Manager; Eric L. Storrie, CPRP - Special Districts Manager; Anthony Miller, Special Districts Project Manager; Grant Dunne, Management Analyst III; Emilio Ramirez, Housing Director; Elsa Brown, Affordable Housing Manager; Brenda Lopez, Housing Programs Manager; Kathleen Mallory, Planning & Sustainability Manager; Matthew Simpkins, Community Development Management Analyst; Javier Chagoyen-Lazaro, Chief Financial Officer; Mark Sewell, Assistant Chief Financial Officer; Beth Vo, Assistant Chief Financial Officer; Victor Zambrano, Budget Manager; Gary Krumian, IT Programmer Analyst; Terrel Harrison, Cultural & Community Services Director; Pamela Morrison, Cultural & Recreation Services Manager; Eden Alomeri, Revenue & Licensing Director & Assistant City Treasurer; Dee Lai, Assistant City Clerk and Rose Chaparro, City Clerk.

Mark E. Mandell with Mandell Municipal Counseling; Hitta Mosesman, Vice President of Community Development and Housing, Harris & Associates; Kelly Morgan, Project Manager, Community Development and Housing, Harris & Associates; and Amanda Welker, Financial Analyst with NBS Local Government Consultants participated via videoconference.

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

CONSIDERATION OF TELECONFERENCE PARTICIPATION PURSUANT TO ASSEMBLY BILL 2449:

During this meeting, Councilmember Teran participated remotely from the following location: Hampton Inn Riverside Downtown (Business Center) located at 3505 Market Street, Riverside, CA 92501.

B. OPENING CEREMONIES (6:00 PM)

The flag salute was followed by a moment of silence.

C. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Public comments were received from Lang Martinez (Councilmember Basua and homeless), Karl Lawson (Public Works Commendation), Patricia Brown (big trucks driving on Oxnard Blvd.), Bryan Rodriguez (Councilmember Perello's comments on June 6th), Jordan Cruz, South Oxnard Police Precinct), and Wilson Troung.

D. REPORT OF CITY MANAGER/EXECUTIVE DIRECTOR/SECRETARY

1. City Manager Department

SUBJECT: Local Government Fun Fact: Comparative Cities Statistics.

RECOMMENDATION: That the Public and City Council receive a City Manager discussion about Oxnard's statistics as compared with other cities in the region.

City Manager Nguyen provided the following community updates:

- Groundwater Adjudication Notice: Explanation from the City Attorney, City Council meeting on 5/16/23 available at: www.youtube.com/OxnardNews. Also, visit the Adjudication website: www.opvcoalition.org for additional information.
- Community Action of Ventura County will continue its Utility Bill Assistance Program, Low Income Household Water Assistance Program and will hold application assistance workshop on Monday, June 26 from 8:30 a.m. – 12 p.m. at 214 South C Street. For information call 805-436-4000.
- Oxnard Police Department and Fire Department remind the community that all fireworks are illegal in Oxnard. Possession, sales, or use may subject property owners and tenants to arrest or fines up to \$1,000 per count for every violation on their property. Fireworks Hotline (805) 394-5884.
- Fun Facts: Local Government Revenue Per Capita – Revenue Sources for other communities in Ventura County compared to the City of Oxnard.

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

Councilmember Teran plans to attend the Riverpark Neighborhood Council meeting.

Councilmember Madrigal attended the Philippine Independence Day Flag Raising Ceremony hosted by Fil-Am Council of Ventura County. He also attended the 32nd Annual Juneteenth Celebration event at downtown Oxnard Plaza Park. This event celebrates the 1865 historical Proclamation of Freedom from slavery in Texas.

Councilmember Basua announced that she will not be attending the July 5, 2023 Council meeting due to being on travel.

Mayor Pro Tem MacDonald attended the Gold Coast Transit District Board meeting and provided an update on the launch of the Nighttime Microtransit Service to better serve the community of Oxnard.

Councilmember Perello also attended the Philippine Independence Day Flag Raising Ceremony hosted by Fil-Am Council of Ventura County and the 32nd Annual Juneteenth Celebration event at downtown Oxnard Plaza Park. He is glad that the Via Marina Neighborhood Council has been reactivated.

Councilmember Valenzuela Zavala also attended the Philippine Independence Day Flag Raising Ceremony hosted by Fil-Am Council of Ventura County and the 32nd Annual Juneteenth Celebration event at downtown Oxnard Plaza Park. He also attended the Pride 2023 Oxnard LGBTQ+ Resource Fair.

Mayor Zaragoza wished all the Dad's a Happy Father's Day.

F. REVIEW OF INFORMATION/CONSENT AGENDA

Items H.1 through H.5 were discussed among the Council and staff.

G. PUBLIC COMMENTS ON INFORMATION/CONSENT AGENDA (None received.)

H. INFORMATION/CONSENT AGENDA

1. City Clerk Department

SUBJECT: Approval of Minutes.

RECOMMENDATION: That the City Council approve the minutes of the May 2, 2023 regular meeting as presented.

2. Police Department

SUBJECT: ABC Mini-Grant - Alcohol Policing Partnership Program.

RECOMMENDATION: That the City Council adopt **Resolution #15,706** authorizing:

1. The City Manager to apply for \$94,944 in grant funds from the Department of Alcoholic Beverage Control to be used for overtime to conduct four (4) Minor Decoy Operations, four (4) Shoulder Tap Operations, four (4) Trap Door Operations, and four (4) IMPACT Inspections;
2. The City Manager or designee to execute grant agreements and appropriate funds upon confirmation of the grant award;
3. The Chief Financial Officer or designee to submit financial reports and grant claims and approve budget appropriations for the use of ABC Grant funds; and
4. The Chief of Police or designee to submit all program-related progress or status

reports.

3. City Manager Department

SUBJECT: Approval of FY 23-24 Special Event Support Program Events and Budget.

RECOMMENDATION: That the City Council:

1. Approve the list of recommended events for the Special Event Support Program in FY 23-24; and
2. Approve minor changes to the Special Event Support Program in FY 23-24.

(The Community Services, Public Safety, Housing & Development Committee approved 3-0 on May 23, 2023).

4. Public Works Department

SUBJECT: Fiscal Year 2022-23 Budget Appropriation for Community Facilities District Number 7, Wagon Wheel.

RECOMMENDATION: That the City Council approve a Fiscal Year 2022-23 budget appropriation from the available fund balance in the amount of \$100,399 to the Special Districts Fund (120), (Sub Fund 6070 - Wagon Wheel CFD07) for reimbursement of Fiscal Year 2022-23 authorized Developer reimbursements from the Wagon Wheel Community Facilities District.

(Finance and Governance Committee approved 3-0.)

5. Housing Department

SUBJECT: Housing Authority Low Rent Public Housing and Housing Choice Voucher Program Section 8 Budgets for Fiscal Year 2023-2024.

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

1. Adopt **Resolution # HA 1339** approving the recommended \$7,352,123 operating budgets for the Low Rent Public Housing Program for Fiscal Year 2023-2024, as presented for each project area, and approve and authorize the use of \$359,597 of unrestricted cash to fund the projected deficit.
2. Adopt **Resolution # HA 1340** approving the recommended \$30,848,417 operating budget for the Housing Choice Voucher Program Section 8 for Fiscal Year 2023-2024 and approve and authorize the use of \$304,238 of unrestricted cash to fund the projected deficit.

(This item was presented to the Community Services, Public Safety, Housing & Development Committee on June 13, 2023. As of publication of this staff report, the action by the Committee was not yet known.)

Consent Items H.1 – H.4:

It was moved by Mayor Pro Tem MacDonald, seconded by Councilmember Perello, to approve the recommended action as presented. VOTE: Basua, MacDonald, Madrigal, Perello, Teran, Valenzuela Zavala, and Zaragoza voted in favor; motion passed 7-0.

Housing Authority Consent Item H.5:

It was moved by Mayor Pro Tem MacDonald, seconded by Councilmember Perello, to approve the recommended action as presented. VOTE: Basua, MacDonald, Madrigal, Perello, Teran, Valenzuela Zavala, and Zaragoza voted in favor; motion passed 7-0. Housing Authority Commissioners Jose Andrade and Francisco Vega were absent.

I. PUBLIC HEARINGS**1. Community Development Department**

SUBJECT: Compliance Fee Study: Council consideration of update to Alcohol, Compliance Fee; and Adoption of New Compliance Fees for Tobacco, Firearms, and Cannabis Businesses.

RECOMMENDATION: That the City Council

1. Conduct a public hearing concerning the introduction of **Ordinance No. 3029** adding Sections 13-1 and 13-2 to Article I of Chapter 13 of the Oxnard City Code;
2. Adopt a Compliance Fee Study establishing compliance fees on businesses that sell firearms, alcohol, cannabis, and tobacco; and
3. Approve the first reading by title only and waive further reading **Ordinance No. 3029** adding Sections 13-1 and 13-2 to Article I of Chapter 13 of the Oxnard City Code codifying compliance fees for firearms, alcohol, cannabis, and tobacco businesses.

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

Kathleen Mallory, Planning & Sustainability Manager presented and introduced Matthew Simpkins, Community Development Management Analyst. They were available to answer questions.

Mayor Zaragoza opened the public testimony portion of the public hearing. Public comments were received from Ryan Underlin, Andy Conli, and Ned Davis.

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

It was moved by Councilmember Madrigal, seconded by Councilmember Basua, to approve the recommended action as presented. VOTE: Basua, MacDonald, Madrigal, Perello, Teran, Valenzuela Zavala, and Zaragoza voted in favor; motion passed 7-0.

2. Public Works Department

SUBJECT: Fiscal Year 2023-24 **Resolution #15,707** to Levy Assessments in Mandalay Beach Maintenance District.

RECOMMENDATION: That the City Council, acting as the legislative body for the Mandalay Beach Maintenance District:

1. Hold a public hearing to receive public testimony regarding the proposed Fiscal Year 2023-24 assessments for the Mandalay Beach Maintenance District; and
2. **Adopt Resolution #15,707** to levy the special tax assessment for Fiscal Year 2023-24 within the Mandalay Beach Maintenance District for Fiscal Year 2023-24.

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

Eric L. Storrie, CPRP - Special Districts Manager presented and was available to answer questions.

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

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

It was moved by Councilmember Basua, seconded by Councilmember Perello, to approve the recommended action as presented. VOTE: Basua, MacDonald, Madrigal, Perello, Teran, Valenzuela Zavala, and Zaragoza voted in favor; motion passed 7-0.

3. Public Works Department

SUBJECT: Fiscal Year 2023-24 **Resolution #15,708** to Levy Assessments in the Waterways Maintenance District.

RECOMMENDATION: That the City Council, acting as the legislative body for the Waterways Maintenance District:

1. Hold a public hearing regarding proposed assessments for the Waterways Maintenance District for Fiscal Year 2023-24, and
2. Adopt **Resolution #15,708** to levy the special assessment on property within the Waterways Maintenance District for Fiscal Year 2023-24.

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

Eric L. Storrie, CPRP - Special Districts Manager presented and was available to answer questions.

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

Without objection, the Council approved closing the public testimony portion of the public hearing.

Discussion ensued among the Council and staff.

It was moved by Councilmember Valenzuela Zavala, seconded by Councilmember Madrigal, to approve the recommended action as presented. VOTE: Basua, MacDonald, Madrigal, Perello, Teran, Valenzuela Zavala, and Zaragoza voted in favor; motion passed 7-0.

4. Public Works Department

SUBJECT: Fiscal Year 2023-24 Landscape Maintenance Districts Adoption of **Resolution #15,709** Confirming Diagrams and Assessments.

RECOMMENDATION: That City Council:

1. Hold a public hearing to receive public testimony regarding the proposed Fiscal Year 2023-24 assessments in the City's LMDs; and
2. Adopt "**Resolution #15,709** of the City Council of the City of Oxnard, California, Confirming Diagrams and Assessments for Fiscal Year 2023-24 in Connection with the City's Landscape Maintenance Districts" which does not include District Nos. 3 and 13.

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

Eric L. Storrie, CPRP - Special Districts Manager presented and was available to answer questions.

Mayor Zaragoza opened the public testimony portion of the public hearing. Public comments were received from Ray Blattel.

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

It was moved by Mayor Pro Tem MacDonald, seconded by Councilmember Perello, to approve the recommended action as presented. VOTE: Basua, MacDonald, Madrigal, Perello, Teran, Valenzuela Zavala, and Zaragoza voted in favor; motion passed 7-0.

5. Public Works Department

SUBJECT: Fiscal Year 2023-24 Landscape Maintenance Districts Adoption of a **Resolution #15,710** Confirming Diagrams and Assessments for District No. 3.

RECOMMENDATION: That City Council:

1. Hold a public hearing to receive public testimony regarding the proposed Fiscal Year 2023-24 assessments for LMD No. 3 (River Ridge); and
2. Adopt "**Resolution #15,710** of the City Council of the City of Oxnard, California, Confirming Diagrams and Assessments for Fiscal Year 2023-24 in Connection with the City's Landscape Maintenance District No. 3 River Ridge"

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

Eric L. Storrie, CPRP - Special Districts Manager presented and was available to answer questions.

Mayor Zaragoza opened the public testimony portion of the public hearing. Public comments were received from Douglas Partello (announced that he did not want to speak on this item).

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

It was moved by Councilmember Perello, seconded by Councilmember Valenzuela Zavala, to approve the recommended action as presented. VOTE: Basua, MacDonald, Madrigal, Perello, Teran, and Valenzuela Zavala voted in favor; motion passed 6-0-1. Mayor Zaragoza recused due to owning property in LMD No. 3.

6. Public Works Department

SUBJECT: Fiscal Year 2023-24 Landscape Maintenance Districts Adoption of a **Resolution #15,711** Confirming Diagrams and Assessments for District No. 13.

RECOMMENDATION: That City Council:

1. Hold a public hearing to receive public testimony regarding the proposed Fiscal Year 2023-24 assessments for LMD No. 13 (Le Village); and
2. Adopt “**Resolution #15,711** of the City Council of the City of Oxnard, California, Confirming Diagrams and Assessments for Fiscal Year 2023-24 in Connection with the City’s Landscape Maintenance District No. 13 (Le Village).”

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

Eric L. Storrie, CPRP - Special Districts Manager presented and was available to answer questions.

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

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

It was moved by Councilmember Valenzuela Zavala, seconded by Councilmember Madrigal, to approve the recommended action as presented. VOTE: Basua, MacDonald, Madrigal, Teran, Valenzuela Zavala, and Zaragoza voted in favor; motion passed 6-0-1. Councilmember Perello recused from voting on this item due to owning property in LMD No. 13.

J. REPORTS

1. Public Works Department

SUBJECT: Resolution #15,712 Authorizing the Levy of Special Taxes within Community Facilities District No. 8 for the Fiscal Year 2023-24.

RECOMMENDATION: That the City Council acting as the legislative body for Community Facilities Districts (CFD) No. 8, adopt **Resolution #15,712** entitled “Resolution of the City Council of the City of Oxnard Acting as the Legislative Body of Community Facilities District No. 8 (Sakioka Farms) of the City of Oxnard Authorizing the Levy of Special Taxes within Community Facilities District No. 8 (Sakioka Farms) for the Fiscal Year 2023-24.”

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

It was moved by Councilmember Perello, seconded by Councilmember Basua, to approve the recommended action as presented. VOTE: Basua, MacDonald, Madrigal, Perello, Teran, Valenzuela Zavala, and Zaragoza voted in favor; motion passed 7-0.

2. Finance Department

SUBJECT: Public Safety Property Tax Assessment FY 2023-24.

RECOMMENDATION: That the City Council adopts **Resolution #15,713** establishing the FY 2023-24 tax rates on property in the City of Oxnard for the payment of voter-approved obligations related to public safety personnel pension expenses.

Mark Sewell, Assistant Chief Financial Officer presented and answered questions. No public comments were received. Discussion ensued among the Council and staff.

It was moved by Mayor Zaragoza, seconded by Councilmember Madrigal, to approve the recommended action as presented. VOTE: Basua, MacDonald, Madrigal, Perello, Teran, Valenzuela Zavala, and Zaragoza voted in favor; motion passed 7-0.

3. Finance Department

SUBJECT: Annual Delegation of Investment Authority.

RECOMMENDATION: That the City Council adopt **Resolution #15,714** delegating investment authority to the City Treasurer for FY 2023-24.

(The Finance and Governance Committee approved 3-0 on May 23, 2023.)

Mark Sewell, Assistant Chief Financial Officer presented and answered questions. No public comments were received. Discussion ensued among the Council and staff.

It was moved by Mayor Pro Tem MacDonald, seconded by Councilmember Perello, to approve the recommended action as presented. VOTE: Basua, MacDonald, Madrigal, Perello, Teran, Valenzuela Zavala, and Zaragoza voted in favor; motion passed 7-0.

4. Finance Department

SUBJECT: Adoption of Fiscal Year 2023-24 Budget.

RECOMMENDATION: 1. That the City Council adopt the following resolutions:

- a. **Resolution #15,715** of the City Council of the City of Oxnard Approving the City Operating and Capital Improvement Budget for Fiscal Year 2023-24;
- b. **Resolution #15,716** of the City Council of the City of Oxnard Authorizing Full-Time Equivalent Positions in the City Service Effective July 1, 2023, in accordance with the Operating Budget for the Fiscal Year 2023-24;
- c. **Resolution #15,717** of the City Council of the City of Oxnard Authorizing Classification and Salary Schedules and Approving the Attached Classification and Salary Schedule;
- d. **Resolution #15,718** of the City Council of the City of Oxnard Establishing Financial Management Policies;
- e. **Resolution #15,719** of the City Council of the City of Oxnard Establishing an Appropriation Limit for the Fiscal Year 2023-24; and
- f. **Resolution #15,720** of the City Council of the City of Oxnard Adopting a Master Fee Schedule; and

2. That the Housing Board of Commissioners adopt **Resolution # HA 1341** Approving the Housing Authority's Operating Budget for the Fiscal Year 2023-24; and

3. That the City Council increase the appropriation in the Fiscal Year 2022-23 General Fund by \$4,038,896, and increase revenues in the Water Operating Fund, with respect to the final Water Infrastructure Use Fee reimbursement payment.

Ashley Golden, Assistant City Manager presented and answered questions. No public comments were received. Discussion ensued among the Council and staff.

It was moved by Councilmember Basua, seconded by Councilmember Perello, to approve the recommended action as presented. VOTE: Basua, MacDonald, Madrigal, Perello, Teran, Valenzuela Zavala, and Zaragoza voted in favor; motion passed 7-0. Housing Authority Commissioners Jose Andrade and Francisco Vega were absent.

5. Information Technology Department

SUBJECT: Renewal of Purchase Order 8022 with CompuWave, Inc. for the Purchase of Information Technology Goods and Services.

RECOMMENDATION: That the City Council approve and authorize the Mayor to renew Purchase Order 8022 for information technology goods and services with CompuWave, Inc., pursuant to a piggyback agreement from the County of Ventura Contract No. 8926, for an additional two-year term expiring June 30, 2025, and increasing the not to exceed amount from \$1,600,000 to \$2,600,000.

(Finance & Governance Committee approved 3-0 on May 23, 2023.)

Gary Krumian, IT Programmer Analyst presented and answered questions. No public comments were

received. Discussion ensued among the Council and staff.

It was moved by Mayor Pro Tem MacDonald, seconded by Councilmember Madrigal, to approve the recommended action as presented. VOTE: Basua, MacDonald, Madrigal, Perello, Teran, Valenzuela Zavala, and Zaragoza voted in favor; motion passed 7-0.

6. Housing Department

SUBJECT: Authorize the Assessment and Collection of Fees within the Oxnard Downtown Management District for Fiscal Year 2023-2024.

RECOMMENDATION: That the City Council adopt **Resolution #15,721** authorizing the assessment and collection of fees within the Oxnard Downtown Management District for Fiscal Year 2023-2024.

(This item did not originate in Committee.)

Emilio Ramirez, Housing Director presented and answered questions. No public comments were received. Discussion ensued among the Council and staff.

It was moved by Councilmember Perello, seconded by Councilmember Valenzuela Zavala, to approve the recommended action as presented. VOTE: Basua, MacDonald, Madrigal, Perello, Teran, Valenzuela Zavala, and Zaragoza voted in favor; motion passed 7-0.

7. Public Works Department

SUBJECT: Fourth Amendment to Agreement A-8221 with Big Truck Rental, LLC for Short Term Rental of Refuse Collection Vehicles for the Environmental Resources Division.

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute a Fourth Amendment to a Rental Agreement with Big Truck Rental, LLC in the amount of \$1,294,235 for a new total not to exceed \$4,463,035 for an additional period of 12 months for the rental of refuse collection vehicles.

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

Brian Yanez, Assistant Public Works Director presented and answered questions. No public comments were received. Discussion ensued among the Council and staff.

It was moved by Councilmember Perello, seconded by Mayor Zaragoza, to approve the recommended action as presented. VOTE: Basua, MacDonald, Madrigal, Perello, Teran, Valenzuela Zavala, and Zaragoza voted in favor; motion passed 7-0.

8. Public Works Department

SUBJECT: Professional Services Agreement 32400003 with Northern Digital, Inc. (NDI) for Supervisory Control and Data Acquisition Systems (SCADA) Support Services.

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute an agreement with Northern Digital, Inc. (NDI) for an amount not to exceed \$1,000,000 for a

three year term for supervisory control and data acquisition (SCADA) support services for the water, wastewater, and recycled water systems.

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

Joseph Marcinko, Assistant Public Works Director presented and answered questions. No public comments were received. Discussion ensued among the Council and staff.

It was moved by Councilmember Perello, seconded by Councilmember Madrigal, to approve the recommended action as presented. VOTE: Basua, MacDonald, Madrigal, Perello, Teran, Valenzuela Zavala, and Zaragoza voted in favor; motion passed 7-0.

9. Housing Department

SUBJECT: Oxnard Navigation Center Operating Agreement with Mercy House for fiscal year 2023-2024.

RECOMMENDATION: That the City Council:

1. Approve and authorize the Mayor to execute the Oxnard Navigation Center Operating Agreement (Agreement Number 32400019) with Mercy House for the provision of shelter and navigation center operations in fiscal year 2023-2024, in the amount not-to-exceed \$3,228,297;
2. Authorize the City Manager or designee to appropriate the use of PLHA funds in the amount of \$1,328,297;
3. Authorize the City Manager or designee to appropriate the use of California State grant funds in the amount of \$800,000.

(This item did not originate in Committee.)

Emilio Ramirez, Housing Director presented and answered questions. No public comments were received. Discussion ensued among the Council and staff.

It was moved by Councilmember Perello, seconded by Mayor Zaragoza, to approve the recommended action as presented. VOTE: Basua, MacDonald, Madrigal, Perello, Teran, Valenzuela Zavala, and Zaragoza voted in favor; motion passed 7-0.

10. Cultural & Community Services Department

SUBJECT: Agreement with the Oxnard School District for the Operations of the After-School Education and Safety Grant.

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute a one-year agreement (A-8528) with the Oxnard School District (OSD) for the City to receive an amount not to exceed \$4,680,000 to operate the After-School Education and Safety Program with a City match of \$130,000 of in-kind services.

Terrel Harrison, Cultural & Community Services Director presented and was available to answer questions. No public comments were received. Discussion ensued among the Council and staff.

A clerical error was made and the wrong agreement number was listed on the agenda for this item. The correct number for this agreement with the Oxnard School District is (A-8528)

It was moved by Councilmember Basua, seconded by Mayor Zaragoza, to approve the recommended action as presented. VOTE: Basua, MacDonald, Madrigal, Perello, Valenzuela Zavala, and Zaragoza voted in favor; motion passed 6-0-1. Councilmember Teran recused due to his professional working relationship with the Oxnard School District.

K. ADJOURNMENT

There being no further business on the agenda, and without objection, Mayor Zaragoza adjourned the meeting at 8:41 p.m.

ROSE CHAPARRO

City Clerk

JOHN C. ZARAGOZA

Mayor



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

DATE: July 18, 2023

TO: City Council

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

SUBJECT: Public Project Construction Agreement No. 32400023 with Pacific Builders & Roofing, Inc., dba WSP Roofing, for the Performing Arts Community Center Roof Replacement Project (REBID), Specification No. PW 23-34R.

RECOMMENDATION

That the City Council approve and authorize:

1. \$975,377.63 in Project funds for the Performing Arts Community Center Roof Replacement Project (Project No. C2248);
2. The Mayor to execute an Agreement with Pacific Builders & Roofing, Inc., dba WSP Roofing in the amount of \$750,290.48 for the Project;
3. A contingency amount of \$150,058.10 with Pacific Builders & Roofing, Inc., dba WSP Roofing for a total not to exceed value of \$900,348.58 for the Project; and
3. A Project allocation amount of \$75,029.05 for engineering, inspection, survey and project management for the Project.

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

BACKGROUND

The Project consists of furnishing all necessary labor, materials, equipment and other incidental and appurtenant work to complete roof replacement and repairs at the Performing Arts Community Center (PACC) located at 800 Hobson Way, Oxnard.

The roof has significant issues stemming from age. The building was constructed in the late 1960s and the last time the roof was replaced was 1991 for the Ventura Room, and 1993 for the Oxnard Room. A typical roof constructed of three ply with gravel has a useful life expectancy of 15-20 years, depending on many factors such as the original construction workmanship and the level of preventative maintenance performed. This roof is over 30 years old.

The roof sections requiring replacement are the Oxnard and Ventura rooms and the bathroom/entry building between them. The existing flat roof sections have many leaks with impacts on the inside walls and finishes, to include impacts to the facility's staff and city residents who regularly frequent the facility. There are areas with drywall deterioration from the roof leaks, which will be handled separately, and are not included in the scope of this project. With a new roof, we can prevent further interior deterioration, programming impacts, and other problems.

Additionally there are some minor structural modifications being made to the building to accommodate future HVAC equipment. Completing this roof project will enable future renovation projects for the building as laid out in the CIP under Appendix E: Non-Funded Projects.

Capital Improvement Program (CIP) Reference:

DISCUSSION

The specific work for this Project includes demolition of portions of the existing roofs including approximately 58 square feet of asbestos containing materials, and damaged roof decking. It also includes the installation of a new single ply PVC roofing system on flat-roof surfaces, structural enhancements at the building joint, structural reinforcement for future HVAC equipment, reworking roof drains and scuppers, and all other appurtenant and associated work in accordance with the contract documents.

The work is tentatively scheduled to begin in late Summer 2023 and continue into Winter 2023 (60 working days), unless delayed by unforeseen site conditions, weather impacts, or supply chain delays. Staff will work closely with the building occupants, patrons, area businesses, and residents directly impacted by the work to keep them informed of the project schedule. General project information will be disseminated to help keep the public informed as well.

The notice inviting formal bids (NIFB) on the Project was published on May 11, 2023, and all bids were due and opened on May 30, 2023. The City received three bids for the project and one was rejected as non-responsive. The responsive bids received are as follows:

Pacific Builders & Roofing, Inc., dba WSP Roofing:	\$750,290.48
Commercial Waterproofing Systems, Inc., dba ERC Roofing and Waterproofing:	\$943,206.30

The lowest bidder is Pacific Builders & Roofing, Inc., dba WSP Roofing, and its bid is responsive to the City's NIFB. Following this determination, procurement staff reviewed all documentation received from Pacific Builders & Roofing, Inc., dba WSP Roofing and its subcontractor. Procurement staff verified possession of required currently valid licenses, reviewed the federal Occupational Safety and Health Administration (OSHA) website for safety violations, and verified registration with the California Department of Industrial Relations (DIR). Based upon the available information and research performed to date, staff believes that the contractor is capable of satisfactorily completing the project. Thus, staff recommends that the City Council award the contract for this Project to Pacific Builders & Roofing, Inc., dba WSP Roofing.

In addition to the project award amount of \$750,290.48, staff recommends authorizing \$225,087.15 for the project, which includes \$150,058.10 for project contingency (20% of the contract costs) and \$75,029.05 for the cost for engineering services and City staff (10% of the contract cost). A 20% contingency instead of the traditional 10% is recommended for this project due to the high potential for unforeseen issues with the roof and structural components, along with any hidden problems such as hazardous material that may be discovered once the existing roof is removed. Having the flexibility to address these potential issues expeditiously, in lieu of waiting for additional funding approvals, will mitigate any delay costs during construction. Engineering services include the following activities during construction: engineering, inspection, survey and project management. These recommendations bring the total estimated cost of the project to \$957,377.63.

STRATEGIC PRIORITIES

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

FINANCIAL IMPACT

The total cost for this project shall not exceed \$957,377.63 which includes the construction agreement, contingency and project allocation. There are sufficient project budget appropriations to fund this project.

Performing Arts Community Center Roof Replacement Project		
Project	Fund	Available Project Budget
Project C2043/MO5602 (merging with C2248/22AR32)	American Rescue Plan Act (ARPA) - 204	\$539,400
	Measure O - 104	\$290,200
	Tax Allocation Bond (TAB) Historical Enhancement and Revitalization of Oxnard (HERO) - 315	\$210,000
TOTAL AVAILABLE PROJECT BUDGET		\$1,039,600

*For Finance Use Only: Measure O Fund (Org. 1041001 Obj. 59800), TAB HERO Fund (Org. 3151001 Obj. 59800) / Capital Outlay Fund (Org. 3015601) Project C2043
ARPA Fund (Org. 2041001 Obj. 59800) / Capital Outlay Fund (Org. 3015601) Project C2248*

COMMITTEE OUTCOME

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

Prepared by: Nikolas Boas, Supervising Civil Engineer

ATTACHMENTS

1. Agreement 32400023_WSP Roofing (Pacific Bldrs dba)

CONTRACT

CITY OF OXNARD CONTRACT FOR PERFORMING ARTS COMMUNITY CENTER ROOF REPLACEMENT PROJECT (REBID) SPECIFICATION NO. PW 23-34R

THIS CONTRACT ("Contract") is made and entered this 18th day of July, 2023 ("Effective Date"), by and between the CITY OF OXNARD, a California municipal corporation ("City") and PACIFIC BUILDERS & ROOFING, INC., dba WSP ROOFING ("Contractor"). Contractor's license number is 832752.

In consideration of the covenants set forth herein, the parties hereto agree as follows:

1. Incorporation. The Contract consists of all Contract Documents, which shall include the Notice Inviting Bids, Instructions to Bidders, General Provisions, Special Provisions, Plans, Standard Plans, Greenbook, Reference Specifications, Bid (including documentation accompanying the Bid and post-Bid documentation submitted before the notice of award), insurance documentation, Bonds, the City business license, permits from regulatory agencies, Addenda, Change Orders and Supplemental Agreements. These documents are incorporated herein by reference.
2. Scope of Services. Contractor shall perform the Work in a good and workmanlike manner for the project identified as PERFORMING ARTS COMMUNITY CENTER ROOF REPLACEMENT PROJECT (REBID), Specification No. PW 23-34R (the "Project"), as described in this Contract and in the incorporated Contract Documents.
3. Compensation. In consideration of the services rendered hereunder, City shall pay Contractor a not to exceed amount of SEVEN HUNDRED FIFTY THOUSAND, TWO HUNDRED NINETY DOLLARS AND 48 CENTS (\$750,290.48) in accordance with the prices as submitted in the Bid, attached hereto as Exhibit A and incorporated herein by this reference.
4. Antitrust Claims. In entering into this Contract, Contractor assigns to City all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act (Business and Professions Code Section 16700 *et seq.*) arising from purchases of goods, services, or materials pursuant to the Contract. This assignment shall be made and become effective at the time City tenders final payment to Contractor without further acknowledgment by the parties.
5. Prevailing Wages. City and Contractor acknowledge that the Project is a public work to which prevailing wages apply. Copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Project are on file with the Project Coordinator at City Hall and will be made available to any interested party on request. Contractor and all Subcontractors are not qualified to bid on, be listed in a Bid proposal, or engage in the performance of any contract for public work, as defined in Labor Code Sections 1720 through 1861, unless registered and qualified to perform public work pursuant to Labor Code Section 1725.5 at the time of Bid submission.
6. Workers' Compensation. Labor Code Sections 1860 and 3700 provide that every contractor will be required to secure the payment of compensation to its employees. In accordance with the provisions of Labor Code Section 1861, by signing this Contract, the Contractor certifies as

follows: "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the Work of this Contract."

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

8. Authority. Any person executing this Contract on behalf of Contractor warrants and represents that he or she has the authority to execute this Contract on behalf of Contractor and has the authority to bind Contractor to the performance of its obligations hereunder.

9. Entire Agreement. This Contract, including all incorporated documents, constitutes the entire agreement between the parties hereto with respect to the Project, and supersedes all previous agreements, promises, proposals, representations, understandings and negotiations, whether written or oral, between the parties regarding the subject matter.

10. Amendment. No Contract modification, amendment or supplement to this Contract other than Change Orders will be binding unless written and signed by the parties' duly authorized representatives.

11. Counterparts. This Contract may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A signed copy of this Contract transmitted by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Contract for all purposes.

[signatures on following page]

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

CITY OF OXNARD

CONTRACTOR

☒ John C. Zaragoza, Mayor¹ Date
☐ Jennifer Yates, Purchasing Manager

John Tanner, C.E.O.² Date

Scott E. Tanner, Secretary Date

ATTEST:

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

APPROVED AS TO FORM:

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

¹ The City Council must authorize and the Mayor must sign any formally bid public project agreement over \$200,000. The Mayor may authorize and sign any informally bid public project agreement over \$100,000 but up to \$200,000. The Purchasing Manager may authorize and sign any informally bid public project agreement up to \$100,000.

² The City requires the following for any contract:

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

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

EXHIBIT A

**CITY OF OXNARD
 BID SHEETS FOR PERFORMING ARTS COMMUNITY CENTER ROOF REPLACEMENT
 PROJECT (REBID)
 SPECIFICATION NO. PW 23-34R**

Bidder's Name: Pacific Builders & Roofing Inc., dba: WSP Roofing

To the Honorable Mayor and Members of the City Council:

In compliance with the Notice Inviting Bids, the undersigned hereby agrees to execute the Contract to furnish all labor, materials, equipment and supplies for the Project in accordance with the Contract Documents to the satisfaction and under the direction of the City Engineer at the following prices:

ITEM NO.	DESCRIPTION	PAYMENT REFERENCE	UNIT OF MEASURE	EST. QUANTITY	UNIT PRICE (+/- \$)	EXTENDED AMOUNT
1	Mobilization and Demobilization (maximum 5% of Total Bid Price)	001000-2.1	LS			\$ 34,000.00
2	Selective Demolition	001002-2.1	LS			\$ 99,000.00
3	Cutting and Patching	017329-4.1	LS			\$ 12,600.00
4	Asbestos Roofing Abatement	028200-4.1	SF	58	\$ 300.00	\$ 17,400.00
5	Metal Fabrications	055000-4.1	LS			\$ 6,000.00
6	Rough Carpentry	061000-4.1A	SF	7,394	\$ 6.00	\$ 44,364.00
7	Fascia	061000-4.1B	LF	1,105	\$ 30.00	33,150.00
8	PVC Membrane Roofing	075400-4.1	SF	24,644	\$ 16.92	\$ 416,976.48
9	Sheet Metal Flashing and Trim	076200-4.1	LF	2,500	\$ 15.00	\$ 37,500.00
10	Openings	077233-4.1 083113-4.1 092900-4.1	LS			\$ 3,000.00
11	Joint Sealant	079200-4.1	LS			\$ 6,000.00
12	Expansion Controls	079563-4.1	LF	110	30.00	3,300.00
13	Cement Plaster	092400-4.1	LS			\$ 2,000.00
14	Paint	099113-4.1	LF	1,500	\$ 10.00	\$ 15,000.00

ITEM NO.	DESCRIPTION	PAYMENT REFERENCE	UNIT OF MEASURE	EST. QUANTITY	UNIT PRICE (+/- \$)	EXTENDED AMOUNT
15	Conduits	16111-4-1	LF	400	\$ 50.00	\$20,000.00
TOTAL BID PRICE:\$ 750,290.48						

Note: Several items may be adjusted or deleted. Any changes to the quantities for these items shall not classify as a substantial change as stipulated in Greenbook Section 7-3.5.1. Regardless of total actual volume compared to estimated quantities, the unit prices provided above shall be applied to the final quantity when payment is calculated for these items. No adjustment in the unit prices will be allowed. The City reserves the right to not use any of the estimated quantities, and if this right is exercised, the Contractor will not be entitled to any additional compensation. The cost of all labor, materials, export of material shall be included in the above unit costs; no additional compensation will be granted for such expenses.

TOTAL BID PRICE IN DIGITS: \$ 750,290.48

TOTAL BID PRICE IN WORDS: Seven Hundred Fifty Thousand Two Hundred Ninety and 48/100 Dollars

Contractor must complete all Work within sixty (60) Working Days of the City's Notice to Proceed.

Bidder acknowledges receipt of all addenda:

Addendum:	Date Received:	Addendum:	Date Received:
#01	<u>5/19/2023</u>	#05	_____
#02	_____	#06	_____
#03	_____	#07	_____
#04	_____	#08	_____

Bidder's Name (Company): Pacific Builders & Roofing Inc., dba: WSP Roofing

Signature: <u>Kelly Baird</u>	Title: <u>President</u>
Print: <u>Kelly Baird</u>	Date: <u>5/25/23</u>

Signature: <u>Deni Trowbridge</u>	Title: <u>Assistant Secretary</u>
Print: <u>Deni Trowbridge</u>	Date: <u>5/25/23</u>

EXHIBIT INS-E

INSURANCE REQUIREMENTS FOR CONSTRUCTION PROJECTS (WITH BUILDER'S RISK REQUIREMENT & POLLUTION/ASBESTOS)

1. Contractor shall obtain and maintain during the performance of any services under this Contract 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 Contractor, its agents, representatives, employees or subcontractors. With respect to General Liability, Errors & Omissions, Contractors Pollution Liability, and or Asbestos Pollution Liability, Coverage should be maintained for a minimum for five (5) years after contract completion.

a. Commercial General Liability Insurance, including Contractual Liability, in an amount not less than \$2,000,000 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 location 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. If architectural, engineering, or electrical work will be performed under the Contract, Professional Liability/Errors and Omissions Insurance appropriate to the work being done in an amount not less than \$1,000,000, with neither Contractor nor listed subcontractors 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. Contractors Pollution Liability and/or Asbestos Pollution Liability and/or Errors & Omissions applicable to the work being performed, with a limit no less than \$1,000,000 per claim or occurrence and \$2,000,000 aggregate per policy period of one year.

e. Course of Construction Insurance providing coverage for "all risks" of loss in an amount not less than the completed value of the project, with City named as Owner and Insured.

f. 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. Contractor 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-E. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on the attached forms or on other forms approved by the Risk Manager. All certificates and endorsements are to be received and approved by the Risk Manager before work commences. City reserves the right to require complete certified copies of all required insurance policies at any time. The certificates of insurance and endorsements 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. Contractor agrees that all insurance coverages shall be provided by a California admitted insurance carrier with an A.M. Best rating of A:VII or better and shall be endorsed to state that coverage may not be suspended, voided, canceled by either party, or reduced in coverage or limits without 30 days' prior written notice to the Risk Manager. The Risk Manager shall not approve or accept any endorsement if the endorsement contains "best effort" modifiers or if the insurer is relieved from the responsibility to give such notice.

4. Contractor agrees that the Commercial General Liability and Business Automobile Liability Insurance policies shall be endorsed to name City, its City Council, officers, employees and volunteers as additional insureds as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor; premises owned, occupied or used by Contractor; or automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City, its City Council, officers, employees and volunteers. **The General Liability Special Endorsement Form and Automobile Liability Special Endorsement Form attached to this Exhibit INS-E 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. Any deductibles or self-insured retentions must be declared to and approved by the Risk Manager. At the option of the Risk Manager, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its City Council, officers, employees and volunteers, or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

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

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

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

Endorsement Forms

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

ACORD CERTIFICATE OF INSURANCE					ISSUE DATE (MM/DD/YY)
PRODUCER		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.			
CODE SUB-CODE		COMPANIES AFFORDING INSURANCE COVERAGE			
INSURED		COMPANY LETTER A SPECIFY COMPANY NAMES IN THIS SPACE			
		COMPANY LETTER B			
COVERAGES THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.					
CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY [x] COMMERCIAL GENERAL LIABILITY [x] CLAIMS MADE [x] OCCUR. [x] OWNER'S & CONTRACTOR'S PROT.				GENERAL AGGREGATE \$2,000,000 PRODUCTS COMP/OP AGG. \$2,000,000 PERSONAL & ADV. INJURY \$2,000,000 EACH OCCURRENCE \$2,000,000 FIRE DAMAGE (Any one fire) \$ MED. EXPENSE (Any one person) \$
A	AUTOMOBILE LIABILITY [x] ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS GARAGE LIABILITY				COMBINED SINGLE \$1,000,000 LIMIT BODILY INJURY \$ (Per person) BODILY INJURY \$ (Per accident) PROPERTY DAMAGE \$
A	EXCESS LIABILITY UMBRELLA FORM OTHER THAN UMBRELLA FORM				EACH OCCURRENCE \$ AGGREGATE \$
A	WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY				STATUTORY LIMITS EACH ACCIDENT \$1,000,000 DISEASE-POLICY LIMIT \$1,000,000 DISEASE-EACH EMPLOYEE \$1,000,000
A	OTHER Errors and omissions insurance or malpractice insurance available for the insured's profession; if architectural, engineering or electrical work will be performed under the Contract, Course of Construction Insurance Contractors Pollution Liability and/or Asbestos Pollution Liability				Minimum coverage \$1,000,000 Each consultant/ \$500,000 & listed sub-consultant Course of Construction Completed Value of Project Minimum coverage \$1,000,000 Per claim
DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS					
CERTIFICATE HOLDER City of Oxnard % Evident ID, Inc. 8520 Allison Pointe Blvd Ste 223 PMB 52150 Indianapolis, Indiana 46250-4299 US			CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE ☐ 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 _____		

GENERAL LIABILITY SPECIAL ENDORSEMENT						SUBMIT IN DUPLICATE	
FOR THE CITY OF OXNARD (the "City")						ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)
PRODUCER Telephone:			POLICY INFORMATION: Insurance Company: Policy No.: Policy Period: (from) _____ (to) LOSS ADJUSTMENT EXPENSE Included in Limits In Addition to Limits				
			Deductible Self-Insured Retention (check which) of \$ _____ with an Aggregate of \$ _____ applies to _____ coverage. Per Occurrence Per Claim (which)				
NAMED INSURED SAMPLE			APPLICABILITY This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here in which case only the following specific agreements and permits with the City are covered:				
			CITY AGREEMENTS/PERMITS				
TYPE OF INSURANCE							
GENERAL LIABILITY COMMERCIAL GENERAL LIABILITY COMPREHENSIVE GENERAL LIABILITY OWNERS & CONTRACTORS PROTECTIVE			Claims Made Retroactive Date _____ Occurrence		OTHER PROVISIONS		
COVERAGES			LIABILITY LIMITS IN THOUSANDS \$ EACH OCCURRENCE AGGREGATE				
GENERAL PRODUCTS/COMPLETED OPERATIONS PERSONAL & ADVERTISING INJURY FIRE DAMAGE _____ _____					Underwriter=s representative for claims pursuant to this insurance. CLAIMS: Name: Address: Telephone: ()		
In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:							
1. INSURED. The City, its officers, agents, employees and volunteers are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured. 2. CONTRIBUTION NOT REQUIRED. As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it. 3. SEVERABILITY OF INTEREST. This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included. 4. CANCELLATION NOTICE. With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City. 5. PROVISIONS REGARDING THE INSUREDS 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 52 0 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			
PRODUCER Telephone: _____ SAMPLE NAMED INSURED _____		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 5px;"> POLICY INFORMATION: Insurance Company: _____ Policy No.: _____ Policy Period: (from) _____ (to) _____ LOSS ADJUSTMENT EXPENSE ☐ Included in Limits ☐ In Addition to Limits </td> <td style="width: 50%; padding: 5px;"> ENDORSEMENT NO. _____ ISSUE DATE (MM/DD/YY) _____ </td> </tr> </table> ☐ Deductible ☐ Self-Insured Retention (check which) of \$ _____ with an Aggregate of \$ _____ applies to _____ coverage. ☐ Per Occurrence ☐ Per Claim (which) _____ APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ in which case only the following specific agreements and permits with the City are covered: CITY AGREEMENTS/PERMITS _____		POLICY INFORMATION: Insurance Company: _____ Policy No.: _____ Policy Period: (from) _____ (to) _____ LOSS ADJUSTMENT EXPENSE ☐ Included in Limits ☐ In Addition to Limits	ENDORSEMENT NO. _____ ISSUE DATE (MM/DD/YY) _____
POLICY INFORMATION: Insurance Company: _____ Policy No.: _____ Policy Period: (from) _____ (to) _____ LOSS ADJUSTMENT EXPENSE ☐ Included in Limits ☐ In Addition to Limits	ENDORSEMENT NO. _____ ISSUE DATE (MM/DD/YY) _____				
TYPE OF INSURANCE ☐ COMMERCIAL AUTO POLICY ☐ BUSINESS AUTO POLICY ☐ OTHER _____		OTHER PROVISIONS CLAIMS: Underwriter's representative for claims pursuant to this insurance. Name: _____ Address: _____ Telephone: () _____			
LIMIT OF LIABILITY \$ _____ per accident, for bodily injury and property damage.					
In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows: 1. INSURED. The City, its officers, agents, volunteers and employees are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured. 2. CONTRIBUTION NOT REQUIRED. As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it. 3. SEVERABILITY OF INTEREST. This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included. 4. CANCELLATION NOTICE. With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City. 5. PROVISIONS REGARDING THE INSURED'S DUTIES. Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers. 6. SCOPE OF COVERAGE. This policy, if primary, affords coverage at least as broad as: a) Insurance Services Office Automobile Liability Coverage, "occurrence" form CA0001, code ("any auto"); or b) If excess, affords coverage which is at least as broad as the primary insurance form referenced in the preceding section (1). Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.					
ENDORSEMENT HOLDER					
City of Oxnard % Evident ID, Inc. 8520 Allison Pointe Blvd Ste 223 PMB 52150 Indianapolis, Indiana 46250-4299 US		AUTHORIZED REPRESENTATIVE ☐ Broker/Agent ☐ Underwriter ☐ _____ I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement. Signature _____ (original signature required) Telephone: () _____ Date Signed _____			

Bond No. _____

**PAYMENT BOND
(LABOR AND MATERIALS)**

KNOW ALL PERSONS BY THESE PRESENTS that:

WHEREAS the City of Oxnard ("Agency"), State of California, has awarded to PACIFIC BUILDERS & ROOFING, INC. dba WSP ROOFING, 8150 Sierra College Boulevard, Suite 290, Roseville, CA 95661 ("Principal"), a contract (the "Contract") for the Work described as PERFORMING ARTS COMMUNITY CENTER ROOF REPLACEMENT PROJECT (REBID), Specification No. PW 23-34R.

WHEREAS, under the terms of the Contract, the Principal is required before entering upon the performance of any Work, to file a good and sufficient Payment Bond with the Agency to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code.

NOW, THEREFORE, we, the undersigned Principal, and _____

(Name and address of Surety)

a corporation organized and existing under the laws of the State of _____ ("Surety") a duly admitted surety insurer under the laws of the State of California, as Surety, and our heirs, assignees, successors, executors and administrators are held and firmly bound, jointly and severally, unto the Agency and all Contractors, Subcontractors, laborers, material suppliers, and other persons employed in the performance of the Contract and referred to in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code in the penal sum of SEVEN HUNDRED FIFTY THOUSAND TWO HUNDRED NINETY DOLLARS AND 48 CENTS (\$750,290.48), this amount being not less than one hundred percent (100%) of the total Contract Price in lawful money of the United States of America, for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to this Work or labor, that the Surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit is brought upon this Bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by Agency in successfully enforcing this obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this Bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this Bond.

Upon expiration of the time within which the California Labor Commissioner may serve a civil wage and penalty assessment against the principal, any of its Subcontractors, or both the principal and its Subcontractors pursuant to Labor Code Section 1741, and upon expiration of the time within which a joint labor management committee may commence an action against the principal, any of its Subcontractors, or both the principal and its Subcontractors pursuant to Labor Code Section 1771.2, if the condition of this Bond be fully performed, then this obligation shall become null and void; otherwise, it shall be and remain in full force and effect.

The Surety hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Contract, including all incorporated documents, shall in any manner affect its obligations on this Bond. The Surety hereby waives notice of any such change, extension, alteration, or addition. Additionally, the Surety hereby waives California Civil Code 2845 and 2849 as well as any statutes of limitation, statutes of repose and laches as they may apply to an action on this Bond.

IN WITNESS WHEREOF, this instrument has been duly executed by Principal and Surety, on the date set forth below, the name of each party being hereto affixed and these presents duly signed by its undersigned representative(s) pursuant to authority of its governing body.

Dated: _____

“Principal”

“Surety”

PACIFIC BUILDERS & ROOFING, INC.,
dba WSP ROOFING

By: _____

By: _____

Its: _____

Its: _____

By: _____

By: _____

Its: _____

Its: _____

(Seal)

(Seal)

Notes: This Bond must be executed in duplicate and dated, all Surety signatures must be notarized, and evidence of the authority of any person signing as attorney-in-fact must be attached. Date of Bond must not be before the Effective Date of the Contract. Surety companies executing Bonds must appear on the Treasury Department’s most current list (Circular 570 as amended) and be authorized to transact business in the State of California.

Bond No. _____

PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS that:

WHEREAS the City of Oxnard ("Agency"), has awarded to PACIFIC BUILDERS & ROOFING, INC. dba WSP ROOFING, 8150 Sierra College Boulevard, Suite 290, Roseville, CA 95661 ("Principal"), a contract (the "Contract") for the Work described as PERFORMING ARTS COMMUNITY CENTER ROOF REPLACEMENT PROJECT (REBID), Specification No. PW 23-34R.

WHEREAS, Principal is required under the terms of the Contract to furnish a Bond for the faithful performance of the Contract.

NOW, THEREFORE, we, the undersigned Principal, and _____

(Name and address of Surety)

a corporation organized and existing under the laws of the State of _____ ("Surety") a duly admitted surety insurer under the laws of the State of California, as Surety, are held and firmly bound unto the Agency in the penal sum of SEVEN HUNDRED FIFTY THOUSAND TWO HUNDRED NINETY DOLLARS AND 48 CENTS (\$750,290.48), this amount being not less than one hundred percent (100%) of the total Contract Price in lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, assignees, successors, executors and administrators, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if the hereby bounded Principal, his, her or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in the Contract and any alteration thereof made as therein provided, on the Principal's part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the Agency, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void two (2) years from the date of recordation of the Notice of Completion for the Project; otherwise, it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by Agency in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered. Surety hereby waives any statutes of limitation, statutes of repose and laches as they may apply to an action on this Bond.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, including all incorporated documents, or of the Work to be performed thereunder or the Specifications accompanying the same shall in any way affect the Surety's obligations under this Bond. The Surety hereby waives notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the Work or to the

Specifications. Surety hereby waives California Civil Code 2845 and 2849. The City is the principal beneficiary of this Bond and has all rights of a party hereto.

IN WITNESS WHEREOF, this instrument has been duly executed by Principal and Surety, on the date set forth below, the name of each party being hereto affixed and these presents duly signed by its undersigned representative(s) pursuant to authority of its governing body.

Dated: _____

“Principal”

“Surety”

PACIFIC BUILDERS & ROOFING, INC.,
dba WSP ROOFING

By: _____

By: _____

Its: _____

Its: _____

By: _____

By: _____

Its: _____

Its: _____

(Seal)

(Seal)

Notes: This Bond must be executed in duplicate and dated, all Surety signatures must be notarized, and evidence of the authority of any person signing as attorney-in-fact must be attached. Date of Bond must not be before the Effective Date of the Contract. Surety companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of California.



CITY COUNCIL AGENDA REPORT

INFORMATION/CONSENT AGENDA

AGENDA ITEM NO. K.3

DATE: July 18, 2023

TO: City Council

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

SUBJECT: Public Project Agreement 32400022 with Blackpointe Group Construction and Management, Inc. for Community Center Park East Playground Improvement Project (Rebid #3), Specification No. PW 22-117R3.

RECOMMENDATION

That the City Council approve and authorize:

1. A total of \$295,024.01 in Project funds for the Community Center Park East Playground Improvement Project (Rebid #3), Specification No. PW 22-117R3;
2. The Mayor to Execute an Agreement with Blackpointe Group Construction and Management, Inc. in the amount of \$245,854.01 for the Project;
2. A Project contingency amount of \$24,585.00 (10%) with Blackpointe Group Construction and Management, Inc. for a total not to exceed value of \$270,439.01 for the Project; and
3. A Project allocation amount of \$24,585.00 for engineering, inspection, survey and project management for the Project.

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

BACKGROUND

The existing playground equipment at Community Center Park East has reached the end of its useful life and is in need of replacement. The new playground equipment and playground surface covering will help enhance the amenities at the park and enhance the safety of children using the new playground equipment.

The work includes removal and disposal of existing playground equipment, concrete supports, and playground surface coverings and the installation of new City owned playground equipment, concrete supports, playground surface coverings and all other associated work.

The Project includes furnishing all necessary labor, materials, equipment and other incidental and appurtenant work to remove and dispose of existing playground equipment and surfaces, transport and install new City owned playground equipment, and furnish and install new playground surfaces.

Capital Improvement Program (CIP) Reference:

Project Nos. **C1810** – Community Center Park East Playground Improvement Project, PW 22-117R3 and **C2220/C2239** - Playground Replacement Program - CIP 2022-2027 - Adopted May 3, 2022 – Pages 26 and 36.

DISCUSSION

The specific work for this Project includes removal and disposal of existing playground equipment, concrete supports,

and playground surface coverings and the installation of new City owned playground equipment, concrete supports, playground surface coverings, and all other appurtenant and associated work in accordance with the Contract Documents. Previous improvements at Community Center East Park include the installation of security lighting and the construction of a new Exeloo restroom. As more funding becomes available, and staffing resources, future park improvements will include parking lot resurfacing and installation of new park amenities.

The work is tentatively scheduled to begin on August 21, 2023 and continue to December 4, 2023 (70 working days), absent any supply chain issues or unforeseen conditions. Staff will work closely with the Parks Manager and area residents to keep them informed of the schedule.

This project has been bid a total of two times previously due to various factors including installer certification requirements and CDBG funding requirements. The notice inviting formal bids (NIFB) for the rebid on the Project was published on April 13, 2023, and all bids were due and opened on May 18, 2023. The City received six bids for this project and three were rejected as non responsive. The following bids are responsive to the NIFB:

Blackpointe Group Construction & Management, Inc.:	\$245,854.01
R.E. Schultz Construction, Inc.:	\$264,716.00
NoHo Constructors:	\$275,000.00

The lowest bidder is Blackpointe Group Construction & Management, Inc. and its bid is responsive to the City's NIFB. Following this determination, procurement staff reviewed all documentation received from Blackpointe Group Construction & Management, Inc. and its subcontractors. Procurement staff verified possession of required currently valid licenses, reviewed the federal Occupational Safety and Health Administration (OSHA) website for safety violations, and verified registration with the California Department of Industrial Relations (DIR). Based upon the available information and research performed to date, staff believes that the contractor is capable of satisfactorily completing the project. Thus, staff recommends that the City Council award the contract for this Project to Blackpointe Group Construction & Management, Inc..

In addition to the project award amount of \$245,854.01, staff recommends authorizing \$49,170.00 for the project, which includes \$24,585.00 for project contingency (10% of the contract costs) and \$24,585.00 for the cost for engineering services and City staff (10% of the contract cost). Engineering services include the following activities during construction: engineering, inspection, survey and project management. These recommendations bring the total estimated cost of the project to \$295,024.01.

STRATEGIC PRIORITIES

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

FINANCIAL IMPACT

The total cost for this phase of the Project (C1810) is \$295,024.01 which includes the construction agreement, contingency, and project allocation for the scope of work noted above. Due to the increased costs of goods and services, the funds in the Community Center Park East Playground Improvement (C1810) from Community Development Block Grant (CDBG) funds have been exhausted with previous phases. Those previous phases included the purchase and installation of an Exeloo restroom unit and the purchase of new playground equipment as well as the associated engineering and design fees.

As an alternative funding source, there is approximately \$4,547,886 in available project appropriations in the Playground Replacement Project No. C2220/C2239, of which \$1,655,245 (Capital Outlay Fund (301) funded via General Fund (101)) is eligible to fund Project No. C1810.

Staff recommends using this funding source to finalize this phase of the Community Center Park East improvements (Project C1810) as Project C2220/C2239 is a general park improvement project. Furthermore, Project C2220/C2239 received an additional \$1M in funding in FY 2023-24, which allows Project C2220/C2239 to continue as planned.

For Finance Use Only: General Fund (Org. 1011001 Obj. 59800) / Capital Outlay Fund (Org. 3013301) Project C2220

COMMITTEE OUTCOME

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

Prepared by: Nikolas Boas, Supervising Civil Engineer

ATTACHMENTS

1. 32400022 Blackpointe PW 22-117R3

CONTRACT

**CITY OF OXNARD CONTRACT FOR
COMMUNITY CENTER PARK EAST PLAYGROUND IMPROVEMENT PROJECT (REBID #3)
SPECIFICATION NO. PW 22-117R3
HUD AGREEMENT NO. B-18-MC-06-0534**

THIS CONTRACT ("Contract") is made and entered this _____ day of _____, 2023 ("Effective Date"), by and between the CITY OF OXNARD, a California municipal corporation ("City") and BLACKPOINTE GROUP CONSTRUCTION AND MANAGEMENT, INC. ("Contractor"). Contractor's license number is 969297.

In consideration of the covenants set forth herein, the parties hereto agree as follows:

1. Incorporation. The Contract consists of all Contract Documents, which shall include:

- The Notice Inviting Bids
- Instructions to Bidders
- General Provisions
- Grant and Federal Provisions
- Special Provisions
- Supplemental Special Provisions
- Plans, Standard Plans
- Greenbook
- Appendix No. 1 – GameTime Play Equipment Owner's Manual and Installation Guide
- Appendix A "HUD LR01.DG Contractor's Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects"
- Appendix B "Davis Bacon Act Wage Decision"
- Appendix C "Section 3 Business Interest Forms"
- Appendix D, "Federal Labor Standards Provisions Form HUD 4010"
- Appendix E "HUD Agreement Nos. B-18-MC-06-0534"
- Appendix F "Inter-Departmental Agreement for Use of CDBG Funds"
- Exhibit A Bid (including documentation accompanying the Bid and post-Bid documentation submitted before the notice of award)
- HUD-51000 Schedule of Amounts for Contract Payments (Exhibit B)
- HUD-5369-A Representations, Certifications, and Statements of Bidders
- Insurance documentation as set forth in Exhibit INS-G
- Bonds
- City business license
- Permits from regulatory agencies
- Addenda
- Change Orders and Supplemental Agreements

The documents above are incorporated herein by reference and are included as part of the Contract Documents.

2. Scope of Services. Contractor shall perform the Work in a good and workmanlike manner for the project identified as COMMUNITY CENTER PARK EAST PLAYGROUND IMPROVEMENT PROJECT (REBID #3), Specification No. PW 22-117R3, HUD Agreement No. B-18-MC-06-0534, ("Project"), as described in this Contract and in the incorporated Contract Documents. This Project is funded in part by Community Development Block Grant funds ("CDBG") from the United States

Department of Housing and Urban Development ("HUD") and the Project is subject to, and must comply with, the applicable requirements of HUD Agreement No. B-18-MC-06-0534 attached and incorporated by reference as Appendix E and the City of Oxnard Inter-Departmental Agreement No. 8470-18-HO for use of CDBG Funds attached and incorporated by reference as Appendix F.

3. Compensation. In consideration of the services rendered hereunder, City shall pay Contractor a not to exceed amount of TWO HUNDRED FORTY FIVE THOUSAND EIGHT HUNDRED FIFTY FOUR DOLLARS AND ONE CENT (\$245,854.01) in accordance with the prices as submitted in the Bid, attached hereto as Exhibit "A" and incorporated herein by this reference.

4. Antitrust Claims. In entering into this Contract, Contractor assigns to City all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act (Business and Professions Code Section 16700 *et seq.*) arising from purchases of goods, services, or materials pursuant to the Contract. This assignment shall be made and become effective at the time City tenders final payment to Contractor without further acknowledgment by the parties.

5. Prevailing Wages. City and Contractor acknowledge that the Project is a public work to which prevailing wages apply. Copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Project are on file with the Project Coordinator at City Hall and will be made available to any interested party on request. Contractor and all Subcontractors are not qualified to bid on, be listed in a Bid proposal, or engage in the performance of any contract for public work, as defined in Labor Code Sections 1720 through 1861, unless registered and qualified to perform public work pursuant to Labor Code Section 1725.5 at the time of Bid submission.

6. Workers' Compensation. Labor Code Sections 1860 and 3700 provide that every contractor will be required to secure the payment of compensation to its employees. In accordance with the provisions of Labor Code Section 1861, by signing this Contract, the Contractor certifies as follows: "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the Work of this Contract."

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

8. Authority. Any person executing this Contract on behalf of Contractor warrants and represents that he or she has the authority to execute this Contract on behalf of Contractor and has the authority to bind Contractor to the performance of its obligations hereunder.

9. Entire Agreement. This Contract, including all incorporated documents, constitutes the entire agreement between the parties hereto with respect to the Project, and supersedes all previous agreements, promises, proposals, representations, understandings and negotiations, whether written or oral, between the parties regarding the subject matter.

10. Amendment. No Contract modification, amendment or supplement to this Contract other than Change Orders will be binding unless written and signed by the parties' duly authorized representatives.

11. Counterparts. This Contract may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A signed copy of this Contract transmitted by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Contract for all purposes.

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

CITY OF OXNARD

**BLACKPOINTE GROUP CONSTRUCTION
AND MANAGEMENT, INC.**

☐ John C. Zaragoza, Mayor¹ _____ Date
☐ Purchasing Manager

Laurel Schittone, CEO ² _____ Date

Victor Schittone, Secretary _____ Date

ATTEST:

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

APPROVED AS TO FORM:

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

¹ The City Council must authorize and the Mayor must sign any formally bid public project agreement over \$200,000. The Mayor may authorize and sign any informally bid public project agreement over \$100,000 but up to \$200,000. The Purchasing Manager may authorize and sign any informally bid public project agreement up to \$100,000.

² The City requires the following for any contract:

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

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

EXHIBIT A

CITY OF OXNARD

BID SHEETS FOR COMMUNITY CENTER PARK EAST PLAYGROUND IMPROVEMENT PROJECT (REBID #3) SPECIFICATION NO. PW 22-117R3 HUD AGREEMENT NO. B-18-MC-06-0534

Bidder's Name: Blackpointe Group Construction & Management Inc

To the Honorable Mayor and Members of the City Council:

In compliance with the Notice Inviting Bids, the undersigned hereby agrees to execute the Contract to furnish all labor, materials, equipment and supplies for the Project in accordance with the Contract Documents to the satisfaction and under the direction of the City Engineer at the following prices:

ITEM NO.	DESCRIPTION	PAYMENT REFERENCE	UNIT OF MEASURE	EVALUATION QUANTITY	TOTAL
1.	Mobilization/Demobilization (maximum 5% of the Total Bid Price)	1001-3	LS	1	\$ 7,500.00
2.	Temporary Fencing and Protection	1003-4	LS	1	\$ 1,300.00
3.	Play Area Equipment Removals	1004-4	LS	1	\$ 10,117.00
4.	Play Area Equipment Installation	1005-4	LS	1	\$ 43,117.00
5.	Play Area Resilient surface base preparation	1006-4.1	SF	7703	\$ 50,069.50
6.	Play Area Resilient Surface	1006-4.2	SF	7703	\$ 132,260.51
7.	Stump Removal	1007-4	LS	1	\$ 1,490.00
TOTAL BID PRICE:					\$ 245,854.01

Note: Several items may be adjusted or deleted. Any changes to the quantities for these items shall not classify as a substantial change as stipulated in Greenbook Section 7-3.5.1. Regardless of total

actual volume compared to estimated quantities, the unit prices provided above shall be applied to the final quantity when payment is calculated for these items. No adjustment in the unit prices will be allowed. The City reserves the right to not use any of the estimated quantities, and if this right is exercised, the Contractor will not be entitled to any additional compensation. The cost of all labor, materials, export of material shall be included in the above unit costs; no additional compensation will be granted for such expenses.

TOTAL BID PRICE IN DIGITS: \$ 245,854.01

TOTAL BID PRICE IN WORDS: Two hundred and forty five thousand eight hundred and fifty four and one cent.

*** The lowest Bid will be determined on the basis of the lowest base amount without considering the amounts listed for the additive or deductive items.

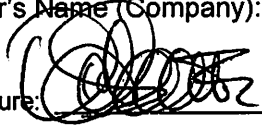
Contractor must complete all Work within seventy (70) Working Days of the City's Notice to Proceed.

Bidder acknowledges receipt of all addenda

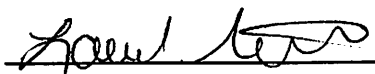
Addendum:	Date Received:
#01	<u>4/12/23</u>
#02	<u>5/11/23</u>

Addendum:	Date Received:
#03	<u> </u>
#04	<u> </u>

Bidder's Name (Company): Blackpointe Group Construction & management Inc

Signature: 
Print: Victor Schittone

Title: President/Director/Secretary
Date: 5/18/2023

Signature: 
Print: Laurel Schittone

Title: CEO/CFO
Date: 5/18/2023

Instructions for Preparation of form HUD-51000

1. A separate breakdown is required for each project and prime contract instructions for preparation are given below.
 - a. **Heading.** Enter all identifying information required for both forms.
 - b. **Columns 1 and 2.** In column 1, enter the item numbers starting with No. 1, and in column 2 enter each principal division of work incorporated in the contract work.
 - (1) **Master List.** The Master list contains the basic items into which any construction contract may be subdivided for the purpose of preparing the Construction Progress Schedule and the Periodical Estimates for Partial Payments. Only those items shall be selected which apply to the particular contract. To ensure uniformity, no change shall be made in the item numbers. Generally, about 25 to 40 major items appear in a contract.
 - (2) **Items Subdivided.** In the Contractor's breakdown, against which all periodical estimates will be checked prior to payment, each major item must be subdivided into sub-items pertinent to the project involved and in agreement with the Contractor's intended basis for requesting monthly payments.
 - c. **Column 3.** Enter the total quantity for each sub-item of each principal division of work listed in the breakdown.
 - d. **Column 4.** Enter the appropriate unit of measure for each sub-item of work opposite the quantities described in column 3, such as "sq. ft.," "cu. yd.," "tons," "lb.," "lumber per M/BM," "brickwork per M," etc., applicable to the particular sub-item. Items shown on "lump sum" or equivalent basis will be paid for only on completion of the whole item and not on a percentage of completion basis.
 - e. **Column 5.** Enter the unit price, in place, of each sub-item of work.
 - f. **Column 6.** Enter the amount of each sub-item obtained by multiplying the quantities in column 3 by the corresponding unit prices in column 5.
 - g. **Column 7.** Enter the amount of principal item only, obtained by adding the amounts of all sub-items of each principal division of work listed in column 6. Continue with the breakdown on form HUD-51000.
 - h. The "Schedule of Amounts for Contract Payments" shall be signed and dated in the space provided at the bottom of each sheet of the form by the individual who prepared the breakdown for the Contractor.
2. The minimum number of copies required for each submission for approval is an original and two copies. When approved, one fully approved copy will be returned to the Contractor.

Master List of Items

Item No.	Division of Work	Item No.	Division of Work	Item No.	Division of Work
1	Bond	20	Rough Carpentry		Site Improvements
2	General Conditions	21	Metal Bucks	44	Retaining Walls
3	Demolition & Clearing	22	Caulking	45	Storm Sewers
	Structures	23	Weatherstripping	46	Sanitary Sewers
4	General Excavation	24	Lath & Plastering-Drywall	47	Water Distribution System
5	Footing Excavation	25	Stucco	48	Gas Distribution System
6	Backfill	26	Finish Carpentry	49	Electrical Distribution System
7	Foundation Piles & Caissons	27	Finish Hardware	50	Street & Yard Lighting
8	Concrete Foundations	28	Glass & Glazing	51	Fire & Police Alarm System
9	Concrete Superstructures	29	Metal Doors	52	Fire Protection System
10	Reinforcing Steel	30	Metal Base & Trim	53	Street Work
11	Waterproofing & Dampproofing	31	Toilet Partitions	54	Yard Work
12	Spandrel Waterproofing	32	Floors	55	(Other)
13	Structural Steel	33	Painting & Decorating	56	(Other)
14	Masonry	34	Screens		Equipment
15	Stonework	35	Plumbing	57	Shades & Drapery Rods
16	Miscellaneous & Ornamental Metal	36	Heating	58	Ranges
17	Metal Windows	37	Ventilating System	59	Refrigerators
18	Roofing	38	Electrical	60	Kitchen Cabinets & Work Tables
19	Sheet Metal	39	Elevators	61	Laundry Equipment
		40	Elevator Enclosures—Metal	62	(Other)
		41	Incinerators—Masonry & Parts		Punch List 1/2
		42	(Other)	63	Lawns & Planting
		43	(Other)	64	

1 General Conditions should be 3% to 5% of contract amount.

2 Punch List should be approximately 1/2 of 1% or \$30 per dwelling unit, whichever is greater.

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9	Concrete Foundations	29	Metal Doors	53	Fire Protection System
10	Concrete Superstructures	30	Metal Base & Trim	54	Street Work
11	Reinforcing Steel	31	Toilet Partitions	55	Yard Work
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14	Structural Steel	34	Screens		
15	Masonry	35	Plumbing		Equipment
16	Stonework	36	Heating	58	Shades & Drapery Rods
17	Miscellaneous & Ornamental Metal	37	Ventilating System	59	Ranges
18	Metal Windows	38	Electrical	60	Refrigerators
19	Roofing	39	Elevators	61	Kitchen Cabinets & Work Tables
		40	Elevator Enclosures—Metal	62	Laundry Equipment
		41	Inclinators—Masonry & Parts		(Other)
		42	(Other)	63	Punch List 1/2
		43	(Other)	64	Lawns & Planting

1 General Conditions should be 3% to 5% of contract amount.

2 Punch List should be approximately 1/2 of 1% or \$30 per dwelling unit, whichever is greater.

Exhibit INS-G

**INSURANCE REQUIREMENTS FOR CONSTRUCTION PROJECTS
(WITHOUT BUILDER'S RISK REQUIREMENT)**

1. Contractor shall obtain and maintain during the performance of any services under this Contract 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 Contractor, its agents, representatives, employees or subcontractors.

a. Commercial General Liability Insurance, including Contractual Liability, in an amount not less than \$2,000,000 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 location 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. If architectural, engineering, or electrical work will be performed under the Contract, Professional Liability/Errors and Omissions Insurance appropriate to the work being done in an amount not less than \$1,000,000, with neither Contractor nor listed subcontractors 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. Contractor 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-G. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on the attached forms or on other forms approved by the Risk Manager. All certificates and endorsements are to be received and approved by the Risk Manager before work commences. City reserves the right to require complete certified copies of all required insurance policies at any time. The certificates of insurance and endorsements shall be sent via email. If you have not received your request or are having difficulty with electronic upload, contact insurance@oxnard.org

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

4. Contractor agrees that the Commercial General Liability and Business Automobile Liability Insurance policies shall be endorsed to name City, its City Council, officers, employees and volunteers as additional insureds as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor; premises owned, occupied or used by Contractor; or automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City, its City Council, officers, employees and volunteers. **The General Liability Special Endorsement Form and Automobile Liability Special Endorsement Form attached to this Exhibit INS-G 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. Any deductibles or self-insured retentions must be declared to and approved by the Risk Manager. At the option of the Risk Manager, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its City Council, officers, employees and volunteers, or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

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

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

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

Endorsement Forms

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

INS-G.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.

CODESUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY
LETTER ASPECIFY COMPANY NAMES IN THIS SPACE

COMPANY
LETTER B

COVERAGES

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

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY ☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS MADE ☒ OCCUR. ☒ OWNER'S & CONTRACTOR'S PROT.				GENERAL AGGREGATE \$2,000,000 PRODUCTS COMP/OP AGG. \$2,000,000 PERSONAL & ADV. INJURY \$2,000,000 EACH OCCURRENCE \$2,000,000 FIRE DAMAGE (Any one fire) \$ MED. EXPENSE (Any one person) \$
A	AUTOMOBILE LIABILITY ☒ ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS GARAGE LIABILITY				COMBINED SINGLE 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; if architectural, engineering or electrical work will be performed under the Contract				Minimum coverage \$1,000,000 Each consultant/ \$500,000 & listed sub-consultant

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS

CERTIFICATE HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 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

Bond No. _____

**PAYMENT BOND
(LABOR AND MATERIALS)**

KNOW ALL PERSONS BY THESE PRESENTS that:

WHEREAS the City of Oxnard ("Agency"), State of California, has awarded to _____

(Name and address of Contractor) ("Principal")

a contract (the "Contract") for the Work described as COMMUNITY CENTER PARK EAST PLAYGROUND IMPROVEMENT PROJECT (REBID #3), SPECIFICATION NO. PW 22-117R3, HUD AGREEMENT NO. B-18-MC-06-0534.

WHEREAS, under the terms of the Contract, the Principal is required before entering upon the performance of any Work, to file a good and sufficient Payment Bond with the Agency to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code.

NOW, THEREFORE, we, the undersigned Principal, and _____

(Name and address of Surety)

a corporation organized and existing under the laws of the State of _____
 ("Surety") a duly admitted surety insurer under the laws of the State of California, as Surety, and
 our heirs, assignees, successors, executors and administrators are held and firmly bound,
 jointly and severally, unto the Agency and all Contractors, Subcontractors, laborers, material
 suppliers, and other persons employed in the performance of the Contract and referred to in
 Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code in the penal sum
 of _____ Dollars (\$ _____), this
 amount being not less than a hundred percent (100%) of the total Contract Price in lawful
 money of the United States of America, for materials furnished or labor thereon of any kind, or
 for amounts due under the Unemployment Insurance Act with respect to this Work or labor, that
 the Surety will pay the same in an amount not exceeding the amount hereinabove set forth, and
 also in case suit is brought upon this Bond, will pay, in addition to the face amount thereof, costs
 and reasonable expenses and fees, including reasonable attorneys' fees, incurred by Agency in
 successfully enforcing this obligation, to be awarded and fixed by the court, and to be taxed as
 costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this Bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this Bond.

Upon expiration of the time within which the California Labor Commissioner may serve a civil wage and penalty assessment against the principal, any of its Subcontractors, or both the principal and its Subcontractors pursuant to Labor Code Section 1741, and upon expiration of the time within which a joint labor management committee may commence an action against the principal, any of its Subcontractors, or both the principal and its Subcontractors pursuant to

Labor Code Section 1771.2, if the condition of this Bond be fully performed, then this obligation shall become null and void; otherwise, it shall be and remain in full force and effect.

The Surety hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Contract, including all incorporated documents, shall in any manner affect its obligations on this Bond. The Surety hereby waives notice of any such change, extension, alteration, or addition. Additionally, the Surety hereby waives California Civil Code 2845 and 2849 as well as any statutes of limitation, statutes of repose and laches as they may apply to an action on this Bond.

IN WITNESS WHEREOF, this instrument has been duly executed by Principal and Surety, on the date set forth below, the name of each party being hereto affixed and these presents duly signed by its undersigned representative(s) pursuant to authority of its governing body.

Dated: _____

“Principal”

“Surety”

By: _____

By: _____

Its: _____

Its: _____

By: _____

By: _____

Its: _____

Its: _____

(Seal)

(Seal)

Notes: This Bond must be executed and dated, all Surety signatures must be notarized, and evidence of the authority of any person signing as attorney-in-fact must be attached. Date of Bond must not be before the Effective Date of the Contract. Surety companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of California.

Bond No. _____

PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS that:

WHEREAS the City of Oxnard ("Agency"), has awarded to _____

(Name and address of Contractor) ("Principal")

a contract (the "Contract") for the Work described as COMMUNITY CENTER PARK EAST PLAYGROUND IMPROVEMENT PROJECT (REBID #3) SPECIFICATION NO. PW 22-117R3 HUD AGREEMENT NO B-18-MC-06-0534.

WHEREAS, Principal is required under the terms of the Contract to furnish a Bond for the faithful performance of the Contract.

NOW, THEREFORE, we, the undersigned Principal, and _____

(Name and address of Surety)

a corporation organized and existing under the laws of the State of _____
("Surety") a duly admitted surety insurer under the laws of the State of California, as Surety, are held and firmly bound unto the Agency in the penal sum of _____
Dollars (\$ _____), this amount being not less than a hundred percent (100%) of the total Contract Price in lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, assignees, successors, executors and administrators, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if the hereby bounded Principal, his, her or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in the Contract and any alteration thereof made as therein provided, on the Principal's part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the Agency, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void one (1) year from the date of recordation of the Notice of Completion for the Project; otherwise, it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by Agency in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered. Surety hereby waives any statutes of limitation, statutes of repose and laches as they may apply to an action on this Bond.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, including all incorporated documents, or of the Work to be performed thereunder or the Specifications accompanying the same shall in any way affect the Surety's obligations under this Bond. The Surety hereby waives notice of any such change,

extension of time, alteration or addition to the terms of the Contract or to the Work or to the Specifications. Surety hereby waives California Civil Code 2845 and 2849. The City is the principal beneficiary of this Bond and has all rights of a party hereto.

IN WITNESS WHEREOF, this instrument has been duly executed by Principal and Surety, on the date set forth below, the name of each party being hereto affixed and these presents duly signed by its undersigned representative(s) pursuant to authority of its governing body.

Dated: _____

“Principal”

“Surety”

By: _____

By: _____

Its: _____

Its: _____

By: _____

By: _____

Its: _____

Its: _____

(Seal)

(Seal)

Notes: This Bond must be executed and dated, all Surety signatures must be notarized, and evidence of the authority of any person signing as attorney-in-fact must be attached. Date of Bond must not be before the Effective Date of the Contract. Surety companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of California.



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

DATE: July 18, 2023
TO: City Council
FROM: Michael Wolfe, Public Works Director, (805) 385-8055, michael.wolfe@oxnard.org
SUBJECT: Grant Application Resolution for FY 2023 Consolidated Appropriations Act Community Project Funding Application.

RECOMMENDATION

That the City Council adopt a resolution:

1. Authorizing the City Manager or designee to submit a grant application to the U.S. Environmental Protection Agency for \$2,846,400 (no local match) in Community Project Funding for the City of Oxnard Water Pipeline Replacement Project;
2. Authorizing the City Manager or designee to execute grant agreements;
3. Authorizing the Finance Director or designee to submit financial reports and grant claims and approve budget appropriations for the use of the grant funds; and
4. Authorizing the Public Works Director or designee to submit non-financial reports.

(This item did not originate in Committee.)

BACKGROUND

In 2022, the House Appropriations Committee in Washington D.C. announced that it would accept a limited number of Community Project Funding (CFP) requests for consideration for FY 2023. Congresswoman Julia Brownley's office requested that the City submit CFP proposals that would be considered for this program.

The City considered multiple projects to propose, in terms of their fit within the Community Project Funding program. An application was submitted to Congresswoman Brownley's office for the City's Kamala and Hobson Parks East Neighborhoods Cast Iron Pipe Replacement Project. Cast iron pipe water lines within the City are typically over 50 years old, in poor physical condition, and beyond their service life. The City has defined replacement projects by neighborhood and prioritized them according to pipe and asphalt conditions.

The project involves engineering design and construction of new water mains in various locations throughout the Kamala and Hobson Neighborhoods. The full scope of work will replace approximately 57,000 linear feet of existing cast iron pipe water distribution mains (ranging from 8" to 12" in diameter) including associated valves, fire hydrants, services, and other appurtenances.

DISCUSSION

The project was ultimately included as a community water infrastructure project identified as a Community Project Funding item in the FY 2023 Consolidated Appropriations Act, earmarked for \$2,846,400 as the City of Oxnard Water Pipeline Replacement Project. The bill then cleared the House and Senate, and was signed into law by the President.

The project is specifically focused on replacing infrastructure that has reached the end of its useful life, increasing system

reliability, and completing underground work in preparation for road resurfacing. A design consultant has been tasked with the following:

- Develop a comprehensive preliminary design report (PDR) outlining the pipeline alignment alternatives, pipe material selection, and trenchless construction technology selection for the new pipeline.
- Provide a complete set of design drawings, specifications, and bid documents that incorporate the results of the PDR.
- Provide a bid item list with a construction cost estimate to be used for budgetary purposes by the City.
- Provide bid and construction phase services and support.
- Develop record drawings representing the final installation.

If awarded this grant, portions of the design costs eligible for the grant from a timing standpoint will be paid using the grant funds. Costs incurred prior to receiving the grant award are eligible for reimbursement if the advertisement and award are in conformance with the federal procurement regulations. After the completion of the design, and complete funding has been secured, the project will be advertised for construction. An award of a construction contract will be brought back for the Council's consideration as appropriate. Any grant funds not used during the design phase are recommended to be used to fund part of the construction costs.

In order to receive this specific funding, the City must submit a grant application package. The attached resolution authorizes the grant application submittal by staff.

STRATEGIC PRIORITIES

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

FINANCIAL IMPACT

There is no direct financial impact for this recommendation action. Upon notification of successful award, City staff will appropriate the grant award into the Fiscal Year 2023-24 Federal Grants Fund along with transfers to appropriate capital fund(s) as necessary. Due to the City meeting the disadvantaged community criteria of the program, no matching funds will be required. Staff has submitted a cost-share waiver to the U.S. EPA for the project.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Eric Humel, Grants Specialist

ATTACHMENTS

1. Resolution

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD
APPROVING THE SUBMITTAL OF A GRANT APPLICATION FOR FY 2023
CONSOLIDATED APPROPRIATIONS ACT COMMUNITY PROJECT
FUNDING

WHEREAS, Oxnard City Council Resolution No. 12,053 sets out the procedure by which City staff may submit grant applications, following approval by resolution of the City Council; and

WHEREAS, the Public Works Department has requested that City Council approve the submittal of an application to the United States Environmental Protection Agency for \$2,846,400 in FY 2023 Consolidated Appropriations Act Community Projects Funding for the City of Oxnard Water Pipeline Replacement Project;

NOW, THEREFORE, the City Council of the City of Oxnard resolves to approve the submittal of a grant application by the City Manager to the United States Environmental Protection Agency for the City of Oxnard Water Pipeline Replacement Project. The City Council further resolves that the City Manager or designee is authorized to execute grant agreements; the Finance Director or designee is authorized to submit financial reports and grant claims and approve budget appropriations for the use of grant funds; and the Director of Public Works or designee is authorized to submit non-financial reports.

PASSED AND ADOPTED THIS 18th day of July, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

John C. Zaragoza, Mayor

Resolution No.
GRANT APPLICATION FOR FY 2023 CONSOLIDATED APPROPRIATIONS ACT
COMMUNITY PROJECT FUNDING
Page 2

ATTEST:

Rose Chaparro, City Clerk

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney



CITY COUNCIL AGENDA REPORT

INFORMATION/CONSENT AGENDA

AGENDA ITEM NO. K.5

DATE: July 18, 2023

TO: City Council

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

SUBJECT: Third Amendment to Lease Agreement A-5300 with Cingular Wireless.

RECOMMENDATION

That the City Council approve the Third Amendment to the "Roof Top" Revenue Lease Agreement A-5300, for a five year term with one option term, with Cingular Wireless, for a cell tower located at 300 W. 3rd Street in Oxnard.

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

BACKGROUND

On November 19, 1996, the City of Oxnard (Landlord) entered into Lease Agreement A-5300 (Agreement) with Cingular Wireless (Tenant) for the installation, maintenance, and use of a rooftop antenna located at 300 West Third Street, Oxnard, CA. The original term was for 5 years and seven 3 year extensions at a lease rate of \$1,700 per month.

The Agreement was first amended on August 1, 2006. The First Amendment increased the lease rate to \$2,500 per month.

The Agreement was amended again on April 1, 2015. The Second Amendment clarified the language of the original Agreement by granting rooftop access to the Tenant 24 hours a day and 7 days a week with a minimum of 45 minutes' notice.

DISCUSSION

This Agreement expired on November 30, 2022. However, both parties agreed to continue on a "month-to-month" basis while developing this Third Amendment.

The Third Amendment extends the Agreement for 5 more years and has an option to extend another 5 years, commencing on April 30, 2028, and expiring on May 1, 2033. The Tenant may choose to not continue the 5-year option term provided they submit a notification in writing to the City at least sixty (60) days prior to April 30, 2028. All other conditions for termination remain in effect per the original 1996 Agreement.

City staff negotiated a better lease rate to be part of the amendment. This Amendment will increase the rate to \$3,535.73 per month and has an annual inflator of 3% during the term of this Amendment.

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

This Amendment increases the monthly lease to \$3,535.73 starting May 1, 2023. The monthly payments for May and June will be billed if the Third Amendment is approved by the City Council. Each December thereafter, the monthly lease payments will increase by 3% per year.

For Finance Use Only: The revenue from this Agreement is collected in the Facilities Maintenance Fund (7353740-43300).

COMMITTEE OUTCOME

The Public Works and Transportation Committee approved 3-0 on June 27, 2023 to approve the staff recommendation and to forward the item for Council approval.

Prepared by: Steve Howlett, Assistant Public Works Director

ATTACHMENTS

1. 10086895_3rd Amdt_AT&T Signed
2. A-5300 Original, 1st and 2nd Amendments
3. Lease Site Image 1
4. Lease Site Image 2

Cell Site No. SBOV37
Cell Site Name: SBOV37-01 CENTRAL OXNARD
Fixed Asset No. 10086895
Market: Los Angeles
Address: 300 West Third Street, Oxnard, CA 93030

Agreement No. A-5300

THIRD AMENDMENT TO OPTION AND ROOFTOP LEASE AGREEMENT

THIS THIRD AMENDMENT TO OPTION AND ROOFTOP LEASE AGREEMENT (“**Third Amendment**”), dated as of the latter of the signature dates below (the “**Effective Date**”), is by and between the City of Oxnard, a municipal corporation, having a mailing address of 305 West Third Street, Oxnard, CA 93030 (hereinafter referred to as “**Landlord**”), and New Cingular Wireless PCS, LLC, a Delaware limited liability company, as successor-in-interest to AT&T Wireless Services of California, Inc., a Delaware corporation, having a mailing address of 1025 Lenox Park Boulevard NE, 3rd Floor, Atlanta, GA 30319 (hereinafter referred to as “**Tenant**”).

WHEREAS, Landlord and Tenant (or its predecessor-in-interest) entered into an Option and Rooftop Lease Agreement dated November 19, 1996, as amended by the First Amendment to Option and Rooftop Lease Agreement dated August 1, 2006, and the Second Amendment to Option and Rooftop Lease Agreement dated April 1, 2015 (hereinafter, collectively referred to as the “**Agreement**”), whereby Landlord leased to Tenant certain Premises, therein described, that are a portion of the Property located at 300 West Third Street, Oxnard, CA 93030; and

WHEREAS, the Agreement expired on November 30, 2022, however the parties are performing under this Agreement on a month to month basis, and mutually desire to amend the Agreement, memorialize such renewal period and modify certain terms and conditions as stated herein; and

WHEREAS, the parties desire to amend the Agreement to extend the term of the Agreement; and

WHEREAS, the parties desire to amend the Agreement to modify the notice section of the Agreement; and

WHEREAS, the parties desire to amend the Agreement to modify the Rent section of the Agreement; and

WHEREAS, the parties agree the following sections from the Agreement are still in effect and incorporated into this Amendment as though fully set forth herein: 1996 Agreement Sections (B)(6), (B)(8) through 17, (B)(19) through (23), (B)(25) and (B)(27); 2006 First Amendment Sections, 1, 2, and 5 through 9; 2015 Second Amendment Section 1; and

WHEREAS, Landlord and Tenant, in their mutual interest, wish to amend the Agreement as set forth below accordingly.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant agree that the recitals set forth above are incorporated herein as if set forth in their entirety and further agree as follows:

1. **New Lease Term.** The term of the Agreement shall be amended to provide that the Agreement has a new term of five (5) years (“**New Term**”) commencing on May 1, 2023.

Cell Site No. SBOV37
Cell Site Name: SBOV37-01 CENTRAL OXNARD
Fixed Asset No. 10086895
Market: Los Angeles
Address: 300 West Third Street, Oxnard, CA 93030

Agreement No. A-5300

2. **OptionTerm.** Commencing on April 30, 2028, Tenant is granted one five (5) year option term (“Additional Renewal Term”), upon the same terms and conditions of the Agreement, as amended herein, unless Tenant notifies Landlord in writing of Tenant’s intention not to renew the Agreement at least sixty (60) days prior to the expiration of the new lease term in section 1 of this amendment. .

3. **Rent.** Commencing on December 1, 2022, the Rent payable under the Agreement shall be Three Thousand Five Hundred Thirty-Five and 73/100 Dollars (\$3,535.73) per month and shall continue during the New Term, subject to adjustment as provided herein. Parties reserve the right to renegotiate the Rent if the parties agree to exercise an Additional Renewal Term.

4. **Future Rent Increase.** Commencing on December 1, 2023, and on each subsequent December 1 thereafter throughout the New Term or Additional Renewal Term, Rent shall increase by three percent (3.0%) over the Rent paid during the previous year.

5. **Relocation of Antenna Facilities.** Notwithstanding any language in the Agreement to the contrary, if Landlord determines it necessary to relocate the Antenna Facilities due to repairs (including seismic repairs) or because the Premises are being demolished, Tenant has the option to relocate its Antenna Facilities to another building on Landlord-owned property, located no further than three (3) blocks from the existing Premises (“**Relocation Premises**”), so long as the Relocation Premises is structurally and technologically compatible with the Tenant’s communications operations. Landlord shall have the right to require Tenant to relocate the Antenna Facilities during the new lease term and/or the option term upon 24 months’ notice to tenant. Landlord’s right to require Tenant’s relocation of the Antenna Facilities is limited to a single request during the new lease term or option term, subject to the following provisions:

- (a) All reasonable costs and expenses associated with or arising out of such relocation (including costs associated with any required tests of the Relocation Premises) shall be paid by Tenant;
- (b) Such relocation will be performed exclusively by Tenant or its agents;
- (c) Such relocation will not unreasonably result in any interruption of the communications service of Tenant on the Property;
- (d) Such relocation will not impair, or in any manner alter, the quality of communications service provided by Tenant on and from the Property; and
- (e) Landlord will waive all fees associated with Governmental Approvals for the Relocation Premises.

Unless a state of emergency is declared at the state or federal level that includes the City of Oxnard because of earthquake damage, Landlord shall provide Tenant with a minimum of twelve (12) months’ notice of the need to relocate Tenant’s Antenna Facilities to a new location and Tenant shall relocate its Antenna Facilities, in good faith and will use its commercially reasonable efforts to relocate within that time frame. Should Landlord and Tenant not come to a mutual agreement on the Relocation Premises within sixty (60) days of Tenant’s receipt of Landlord’s relocation notice, the Agreement may be terminated by either party, without penalty. Upon receiving notice by Landlord requiring relocation of the Antenna Facilities to the Relocation Premises, Tenant shall have the right to place a temporary cell site on wheels (“COW”) on the Property upon removal of the existing facility and during the twelve (12) month notice period, and for up to six (6) months after, at a mutually acceptable location so that Tenant can continue to provide communications service from such location. Landlord agrees to respond in good faith to a request to extend this period upon a showing of good cause and active construction of a replacement facility on Landlord’s property.

Cell Site No. SBOV37
Cell Site Name: SBOV37-01 CENTRAL OXNARD
Fixed Asset No. 10086895
Market: Los Angeles
Address: 300 West Third Street, Oxnard, CA 93030

Agreement No. A-5300

6. **Acknowledgement.** Landlord acknowledges that: 1) this Third Amendment is entered into of the Landlord's free will and volition; 2) Landlord has read and understands this Third Amendment and the underlying Agreement and, prior to execution of this Third Amendment, was free to consult with counsel of its choosing regarding Landlord's decision to enter into this Third Amendment and to have counsel review the terms and conditions of this Third Amendment; 3) Landlord has been advised and is informed that should Landlord not enter into this Third Amendment, the underlying Agreement between Landlord and Tenant, including any termination or non-renewal provision therein, would remain in full force and effect.

7. **Notices.** Section 18 of the Agreement is hereby deleted in its entirety and replaced with the following:

NOTICES: All notices, requests, demands and communications hereunder will be given by first class certified or registered mail, return receipt requested, or by a nationally recognized overnight courier, postage prepaid, to be effective when properly sent and received, refused or returned undelivered. Notices will be addressed to the parties as follows:

If to Tenant:

New Cingular Wireless PCS, LLC
Attn: Network Real Estate Administration
Re: Cell Site No.: SBOV37; Cell Site Name: SBOV37-01 CENTRAL OXFORD (CA)
Fixed Asset No.: 10086895
1025 Lenox Park Boulevard NE 3rd Floor
Atlanta, GA 30319

With a required copy of the notice sent to:

New Cingular Wireless PCS, LLC
Attn: Legal Department- Network Counsel
Re: Cell Site No.: SBOV37; Cell Site Name: SBOV37-01 CENTRAL OXFORD (CA)
Fixed Asset No.: 10086895
208 South Akard Street
Dallas, TX 75202-4206

The copy sent to the Legal Department is an administrative step which alone does not constitute legal notice.

As to Landlord:

City of Oxnard
305 West Third Street
Oxnard, CA 93030

Either party hereto may change the place for the giving of notice to it by thirty (30) days prior written notice to the other as provided herein.

8. **Charges.** All charges payable under the Agreement such as utilities and taxes shall be billed by Landlord within one (1) year from the end of the calendar year in which the charges were incurred; any charges beyond such period shall not be billed by Landlord, and shall not be payable by Tenant. The foregoing shall not apply to monthly Rent which is due and payable without a requirement that it be billed by Landlord. The provisions of this subsection shall survive the termination or expiration of the Agreement.

9. **Other Terms and Conditions Remain.** In the event of any inconsistencies between the Agreement and this Third Amendment, the terms of this Third Amendment shall control. Except as

Cell Site No. SBOV37
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Fixed Asset No. 10086895
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Address: 300 West Third Street, Oxnard, CA 93030

Agreement No. A-5300

expressly set forth in this Third Amendment, the Agreement otherwise is unmodified and remains in full force and effect. Each reference in the Agreement to itself shall be deemed also to refer to this Third Amendment. The original 1996 Agreement and subsequent amendments are attached to this Third Amendment in Exhibit 1.

10. **Exhibit 2.** A Memorandum of Third Amendment to the Lease is attached as Exhibit 2 and is not intended to amend or modify the Agreement or Third Amendment. It is limited to the sole purpose of for recording a fixed asset with the applicable County Recorder's Office.

11. **Capitalized Terms.** All capitalized terms used but not defined herein shall have the same meanings as defined in the Agreement.

[SIGNATURES APPEAR ON THE NEXT PAGE]

Cell Site No. SBOV37
Cell Site Name: SBOV37-01 CENTRAL OXNARD
Fixed Asset No. 10086895
Market: Los Angeles
Address: 300 West Third Street, Oxnard, CA 93030

Agreement No. A-5300

IN WITNESS WHEREOF, the parties have caused their properly authorized representatives to execute this Third Amendment on the dates set forth below.

LANDLORD:

City of Oxnard, a municipal corporation

By: _____

Name: _____

Title: _____

Date: _____

TENANT:

New Cingular Wireless PCS, LLC,
a Delaware limited liability company

By: AT&T Mobility Corporation
Its: Manager

By: Misty Snowden

Name: Misty Snowden

Title: Area Manager

Date: 5/2/23

[ACKNOWLEDGMENTS APPEAR ON THE NEXT PAGE]

Cell Site No. SBOV37
Cell Site Name: SBOV37-01 CENTRAL OXNARD
Fixed Asset No. 10086895
Market: Los Angeles
Address: 300 West Third Street, Oxnard, CA 93030

Agreement No. A-5300

LANDLORD ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of _____)

On _____ before me, _____
(insert name and title of the officer)

personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

Cell Site No. SBOV37
Cell Site Name: SBOV37-01 CENTRAL OXNARD
Fixed Asset No. 10086895
Market: Los Angeles
Address: 300 West Third Street, Oxnard, CA 93030

Agreement No. A-5300

TENANT ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of _____)

On _____ before me, _____
(insert name and title of the officer)

personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Orange

On May 02, 2023 before me, Joyce Story - Notary Public
(insert name and title of the officer)

personally appeared Misty Snowden,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature Joyce Story (Seal)

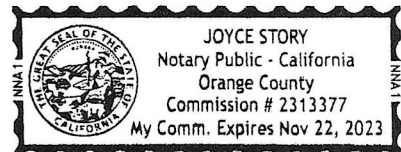


EXHIBIT 1

**1996 ROOFTOP LEASE AND OPTION
AGREEMENT; 2006 FIRST AMENDMENT
TO ROOFTOP LEASE; SECOND
AMENDMENT TO ROOFTOP LEASE**

State: California
Market: Ventura
Cell ID: 5518-97007
Name: Central Oxnard

OPTION AND ROOFTOP LEASE AGREEMENT
(Improved Real Property)

THIS OPTION AND ROOFTOP LEASE AGREEMENT (this "Agreement") is entered into this 19 day of November, 1996, between the City of Oxnard ("Landlord") and AT&T Wireless Services of California, Inc., a Delaware corporation ("Tenant").

For the sum of One Thousand Seven Hundred and 00/100 Dollars (\$1,700.00) (the "Option Fee"), to be paid to Landlord by Tenant within twenty (20) working days after Landlord's execution of this Agreement and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

A. OPTION

1. Premises. Subject to the following terms and conditions, Landlord grants to Tenant an option to lease (the "Option") certain space on the roof of the Building (the "Building") located on the real property (the "Property") described in Exhibit A attached hereto and incorporated herein by this reference. The location and orientation of Tenant's space on the exterior of the Building (the "Premises") is as described in Exhibit B attached hereto and incorporated herein by this reference. The address of the Building is 300 West Third Street, Oxnard, California.

2. Option Term. The Option shall be for an initial term of twelve (12) months commencing on the date set forth above (the "Initial Option Period"). The Option term may be extended for an additional twelve (12) months upon notification to Landlord by Tenant and upon payment of additional consideration in the sum of One Thousand Seven Hundred and 00/100 Dollars (\$1,700.00) ("Additional Option Fee") prior to the end of the Initial Option Period.

3. Cooperation. During the Initial Option Period and any extensions thereto and during the term of this Lease, Landlord agrees to cooperate with Tenant in obtaining and maintaining, at Tenant's sole expense, all licenses and permits required for Tenant's use of the Premises (the "Governmental Approvals") and Landlord agrees to allow Tenant to perform surveys, soils testing, and other engineering procedures on,

under, and over the Property necessary to determine that the Premises will be acceptable to Tenant's engineering specifications, system design and Governmental Approvals; provided that subsequent to any such testing or procedures, Tenant shall restore the Premises, at Tenant's sole expense, to its prior condition. Tenant shall make best efforts to obtain all Government Approvals as quickly as possible. Landlord acknowledges that Tenant shall have no obligation to appeal the denial of any Government Approvals or to seek the extension or renewal of any Government Approvals.

4. Exercise of Option. Tenant may exercise this Option by notifying Landlord in writing prior to the expiration of the Initial Option Period or any extension thereto that Tenant is exercising its Option. Landlord acknowledges that Tenant is under no obligation to exercise the Option and that Tenant's decision to do so will be dependent on Tenant's subjective determination of the utility of the Premises for Tenant's intended purpose.

B. LEASE

5. Lease Term. In the event that Tenant exercises the Option, the term of this lease (this "Lease") shall be five (5) years, commencing upon the date Tenant gives written notice to Landlord that Tenant is exercising its Option (the "Commencement Date") which shall in any event be prior to the expiration of the Initial Option Period or any extension thereof, and terminating at midnight on the last day of the month in which the fifth annual anniversary of the Commencement Date shall have occurred. Tenant shall have the right to extend this Lease for seven (7) additional three (3) year terms ("Renewal Terms"). Each Renewal Term shall be on the same terms and conditions as set forth herein. This Lease shall automatically be renewed for each successive Renewal Term unless Tenant shall notify Landlord of Tenant's intention not to renew this Lease at least ten (10) days prior to the expiration of the term or any Renewal Term.

6. Use.

a. The Premises may be used by Tenant only for the transmission and reception of radio communication signals in any and all frequencies, for the construction and maintenance of related facilities, antennas, or buildings and for related activities and uses as described herein. The design, size and location of any such facilities, antennas or buildings are subject to the prior written approval of Landlord, as provided in Paragraph 9a.

b. In using the Premises, Tenant shall comply with all applicable local, state and federal laws and regulations.

7. Rent.

a. Upon the Commencement Date, Tenant shall pay Landlord, as rent, the sum of Eight Hundred Fifty and 00/100 Dollars (\$850.00) per month (the "Rent"). Rent shall be paid to Landlord within ten (10) days of the first day of each month in advance to Landlord at Landlord's address specified in Paragraph 18 below. If the Lease is commenced other than on the first day of a month, the Rent shall be prorated for that first month for the number of days from the Commencement Date to the end of the month.

b. If this Lease is terminated at a time other than on the last day of a month, Rent shall be prorated as of the date of termination, and, in the event of termination for any reason other than nonpayment of Rent, all prepaid Rents shall be refunded to Tenant.

c. The Rent for each Renewal Term shall be equal to one hundred five percent (105%) of the Rent in effect for the immediately preceding term or Renewal Term, as applicable.

d. Tenant acknowledges that late payment of Rent may cause Landlord to incur administrative costs and expenses which are difficult and impractical to fix. Therefore, if any installment of Rent or other payment due from Tenant is not received by Landlord within ten (10) calendar days after due date, Tenant shall pay Landlord an additional sum equal to five percent (5%) of the past due obligation as a late charge which shall be deemed additional Rent. The parties agree that this late charge represents a fair and reasonable estimate of the administrative costs that Landlord may incur by reason of Tenant's late payments.

8. Interference.

a. Landlord shall not use, nor shall Landlord permit its employees, tenants, licensees, invitees or agents to use any portion of the Property or the Building in any way which interferes with the physical or technological operations of Tenant. Such interference shall be deemed a material breach by Landlord, and Landlord shall have the responsibility to terminate said interference. In the event any such interference does not cease promptly, the parties acknowledge that continuing interference will cause irreparable injury to Tenant, and therefore Tenant shall have the right, in addition to any other rights that it may have at law or in equity, to bring action to enjoin such interference or to terminate this Lease.

b. Nothing in this Lease shall be construed to limit Landlord's right to sell the Building (provided any purchaser of the Building acknowledges in writing that the building is subject to this Lease), use the Building other than the Premises or to

assign or lease the Property or the Building or portions thereof; provided, however, that Landlord shall include in any leases of portions of the rooftop of the Building, the Building and/or the Property a requirement that the tenants shall not interfere with the physical or technological operations of Tenant. Shared use by Tenant and other tenants of portions of the Property or the Building, other than the Premises, or use of the Property or the Building, other than the Premises, by a tenant that competes with Tenant shall not be deemed to be "interference."

c. Nothing in this Lease shall be construed to limit or interfere with Landlord's right to repair, maintain and improve the Building and the rooftop thereof, including, but not limited to, such actions as reroofing. Tenant agrees to cooperate with Landlord and its contractors as necessary to accomplish such repairs, maintenance and improvements, including, on reasonable notice from Landlord, temporarily relocating Tenant's Antenna Facilities and utilities, described in Section 9, to another location of the Building rooftop while Landlord or its contractors perform such repairs, maintenance or improvements. To the extent reasonably possible, Landlord shall cooperate with Tenant to minimize any inconvenience or disruption to Tenant in connection with any such repairs, maintenance or improvements. The responsibility for the costs and expenses associated with any temporary relocation of Tenant's Antenna Facilities as provided for in this subparagraph 8.c. shall be allocated as follows: Landlord shall be responsible for the first \$1,000.00 of such costs and expenses; Landlord and Tenant shall each bear responsibility for one-half of such costs and expenses in excess of the \$1,000.00 which is the responsibility of the Landlord.

9. Improvements; Utilities; Access.

a. Tenant shall have the right, at its expense, to install, construct, repair and maintain in the Premises the improvements, personal property and facilities relating thereto (the "Antenna Facilities"). The installation and construction of the Antenna Facilities shall be in accordance with the design set forth in the Governmental Approvals allowing such installation and construction. The design of the Antenna Facilities may not be substantially altered without the prior written approval of the Landlord, which approval shall not be unreasonably withheld. The Antenna Facilities shall remain the exclusive property of Tenant, and Tenant shall have the right to remove all or any portion of the Antenna Facilities or any portion thereof during the Lease term and following any termination of this Lease. Tenant shall repair any and all damages to the Premises or Property caused by any such removal.

b. Tenant shall have the right to install utilities and to improve the present utilities, all at Tenant's expense, on the Premises (including, but not limited to the installation of emergency power generators). Tenant shall have the right to permanently place utilities, at Tenant's expense, on (or to bring utilities across) the Property in order to service the Premises and the Antenna Facilities, together with a

right to enter the Property in order to maintain, repair and replace said utilities. Landlord shall execute a written easement, which shall expire concurrent with the term of this Lease, as may be extended, in recordable form evidencing these rights upon Tenant's request.

c. Landlord shall provide Tenant ingress and egress from an open and improved public road, and access over and across the Property and to and within the Building adequate to service the Antenna Facilities at all times during the term of this Lease or any renewal thereof at no additional charge to Tenant. Tenant shall be entitled to twenty-four (24) hour, seven (7) days per week, access to the Premises, without the necessity of prior written notice to Landlord.

10. Default.

a. Landlord shall be in default under this Agreement if: (i) Landlord shall fail to cease any physical or technological interference within the cure periods set forth in Paragraph 8 above; or (ii) Landlord shall fail to observe or perform any of Landlord's other obligations under this Agreement when such failure shall continue for thirty (30) days after written notice from Tenant to Landlord; provided, however, that if the nature of Landlord's default is such that it cannot be cured solely by payment of money and that more than said 30-day period may be reasonably required to effect such cure, then Landlord shall not be deemed to be in default under this clause (ii) if Landlord shall commence such cure within said 30-day period and shall thereafter diligently prosecute such cure to completion. In the event of any breach of this Agreement by Landlord, Tenant shall have the right (but not the obligation), in addition to all remedies that may be available at law or in equity, to perform Landlord's obligations under this Agreement. Tenant shall have the right to set off any expense incurred as a result of Landlord's default against any Rent or other payment due under this Agreement.

b. Tenant shall be in default under this Agreement if: (i) Tenant shall fail to pay the Rent due under this Agreement within ten (10) days after written notice from Landlord that such Rent is overdue; or (ii) Tenant shall fail to observe or perform any of Tenant's other obligations under this Agreement when such failure shall continue for thirty (30) days after written notice from Landlord to Tenant; provided, however, that if the nature of Tenant's default is such that it cannot be cured solely by payment of money and that more than said 30-day period may be reasonably required to effect such cure, then Tenant shall not be deemed to be in default under this clause (ii) if Tenant shall commence such cure within said 30-day period and shall thereafter diligently prosecute such cure to completion. In the event of any breach of this Agreement by Tenant, Landlord shall have the right (but not the obligation), in addition to all remedies that may be available at law or in equity, to perform Tenant's obligations under this Agreement.

11. Termination. Except as otherwise provided herein, this Lease may be terminated, without any penalty or further liability, on thirty (30) days written notice as follows: (a) by either party upon a default of any covenant or term hereof by the other party, which default is not cured within sixty (60) days of receipt of written notice of default (without, however, limiting any other rights available to the parties pursuant to any other provisions hereof); (b) by Tenant if it is unable to obtain or maintain any license, permit or other Governmental Approval necessary to the construction and/or operation of the Antenna Facilities or Tenant's business; or (c) by Tenant if the Premises or the Building is or becomes unacceptable under Tenant's design or engineering specifications for its Antenna Facilities or the communications system to which the Antenna Facilities belong. In the event Tenant terminates this Lease under provision (c) of this section, Tenant will pay a termination fee to Landlord equal to one year's rent payments.

12. Condition of Premises Upon Termination. Upon termination, Tenant will return the Premises to their original condition, ordinary wear and tear and casualty excepted.

13. Taxes. Tenant shall pay any personal property taxes assessed on, or any portion of such taxes attributable to, the Antenna Facilities. Landlord shall pay when due all real property taxes and all other fees and assessments attributable to the Premises. However, Tenant shall pay, as additional Rent, any increase in real property taxes levied against the Premises which is directly attributable to Tenant's use of the Premises, and Landlord agrees to furnish proof of such increase to Tenant, except for proof of possessory or other leasehold interest taxes, billings for which are submitted directly to Tenant by the taxing agency. Tenant shall pay and be solely responsible for any possessory or other leasehold interest tax that may be assessed by reason of this Agreement and Tenant's use of the Premises.

14. Insurance.

a. Tenant shall obtain and maintain during the performance of any services under this Agreement the following insurance coverage issued by a company satisfactory to the Risk Manager, unless the Risk Manager waives, in writing, the requirement that Consultant obtain and maintain such insurance coverage.

(1) Commercial general liability insurance, including a contractual liability endorsement, in an amount not less than \$1,000,000 combined single limit for bodily injury and property damage for each claimant for general liability with coverage equivalent to Insurance Services Office Commercial General Liability coverage (Occurrence Form CG0001ED, November 1988);

(2) Business automobile liability insurance in an amount not less than \$1,000,000 combined single limit for bodily injury and property damage for each claimant for automobile liability with coverage equivalent to Auto Liability Insurance Services Office coverage (Occurrence Form CA000T, ED June 1992) covering Code No. 1, "any auto;"

(3) Property insurance against all risk of loss to any Tenant improvements or betterments in the amount of the full replacement cost with no co-insurance penalty provision;

(4) Workers' compensation insurance in compliance with the laws of the State of California, including employer's liability insurance in an amount not less than \$1,000,000 per claimant.

b. Tenant shall, prior to performance of any services, file with the Risk Manager a certificate of insurance, on a City-approved form, certifying that the above insurance coverages shall remain in effect at all times during the term of this Agreement, or any extension thereof. The certificate of insurance shall be forwarded to the Risk Manager, addressed as follows:

City of Oxnard
Risk Manager
Contract No. A-5300
300 West Third Street, Suite 302
Oxnard, California 93030

c. Tenant agrees that all insurance coverages shall be provided by a California admitted insurance carrier with an A.M. Best rating of A-7 or better and shall bear endorsements providing that the policies may not be cancelled or modified 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 efforts" modifiers or if the insurer is relieved from the responsibility to give such notice.

d. Tenant agrees that the commercial general liability and business automobile liability insurance policies shall be endorsed to name City, its City Council, officers and employees as additional insureds and to provide that the coverages provided to City shall be primary and not contributing to or in excess of any existing City insurance coverages.

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

15. Destruction of Property. If the Property, Building or the Premises are destroyed or damaged so as, in Tenant's judgment, to hinder the effective use of the Antenna Facilities, Tenant may elect to terminate this Lease as of the date of the damage or destruction by so notifying Landlord not more than forty-five (45) days following the date of damage. In such event, all rights and obligations of the parties shall cease as of the date of the damage or destruction and Tenant shall be entitled to the reimbursement of any Rent prepaid by Tenant.

16. Condemnation. If a condemning authority takes all of the Property and/or the Building, or a portion sufficient, in Tenant's determination, to render the Premises unsuitable for the use which Tenant was then making of the Premises, this Lease shall terminate as of the date the title vests in the condemning authority.

It is the intention of the parties that neither Landlord nor the condemning authority shall have the right to terminate the Lease in the event of the condemnation of the Premises or any portion of the Property, unless Tenant's use of the Premises thereafter materially interferes with the condemning authority's use of the balance of the Property. The parties shall be entitled to share in the condemnation proceeds in proportion to the values of their respective interests in the Property (which for Tenant shall include, where applicable, the value of its Antenna Facilities, moving expenses, prepaid Rent, and business dislocation expenses) as set out by the condemning authority, or as agreed to by the parties. If the respective interests are not set forth by the condemning authority and the parties are unable to agree, their respective share shall be determined by mediation through an independent mediator or if mediation fails to resolve the controversy, then by arbitration under the provisions of the California Arbitration Act. Sale of all or part of the Property to a purchaser with the power of eminent domain in the face of the exercise of the power, shall be treated as a taking by condemnation.

17. Indemnity.

a. Tenant agrees to indemnify, hold harmless and defend Landlord, its City Council, and each member thereof, and every officer, employee, representative or agent of Landlord, from any and all liability, claims, demands, actions, damages (whether in contract or tort, including personal injury, death at any time, or property damage), costs and financial loss, including all costs and expenses and fees of litigation or arbitration, that arise directly or indirectly from any acts or omissions related to this Agreement performed by Tenant or its agents, employees, subconsultants, consultants and other persons acting on Tenant's behalf. This agreement to indemnify, hold harmless and defend shall apply whether such acts or omissions are the product of active negligence, passive negligence, willfulness or acts for which Tenant or its agents, employees, subconsultants, consultants and other persons acting on Tenant's behalf would be held strictly liable.

b. Tenant agrees to indemnify, hold harmless and defend City, its City Council, and each member thereof, and every officer, employee, representative or agent of City, from any and all liability, claims, demands, actions, damages (whether in contract or tort, including personal injury, death at any time, or property damage), costs and financial loss, including all costs and expenses and fees of litigation or arbitration, that arise directly or indirectly from any acts or omissions related to this Agreement performed by City, its City Council, and each member thereof, or any officer, employee, representative or agent of City, except if such acts or omissions are the product of active negligence or of passive negligence.

c. Tenant's obligation to defend shall arise when a claim, demand or action is made or filed, whether or not such claim, demand or action results in a determination of liability of damages as to which Tenant is obligated to indemnify and hold harmless.

18. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, or sent by overnight carrier to the following addresses:

If to Landlord, to:

City of Oxnard, Facilities Services Program
1060 Pacific Avenue, Building #3
Oxnard, CA 93030

With a Copy to:

City of Oxnard, City Attorney Program
300 West Third Street
Oxnard, CA 93030

Rent Payments to:

City of Oxnard, Finance and Management Services
300 West Third Street
Oxnard, CA 93030

If to Tenant, to:

AT&T Wireless Services
6485 Calle Real, Suite E
Goleta, CA 93117
ATTN: Site Development Manager

With a copy to:

AT&T Wireless Services
Legal Department
1750 Howe Avenue, Suite 300
Sacramento, CA 95825
Attention: General Counsel

Either party may by written notice to the other party specify a different address for notice purposes.

19. Title and Quiet Enjoyment.

a. Landlord warrants that it (i) has full right, power and authority to execute this Agreement; (ii) has good and unencumbered title to the Building free and clear of any ground leases, liens, mortgages or other encumbrances that would interfere with Tenant's intended use of the Premises, except as set forth in Exhibit "C" attached hereto; (iii) is the lessee of the Property from the owner of the Property, and (iv) has the power to grant the access rights as set forth in Paragraph 9(c) above. Landlord further warrants that Tenant shall have the quiet enjoyment of the Premises during the term of this Lease.

b. Tenant has the right to obtain a title report or commitment for a leasehold title policy from a title insurance company of its choice. If, in the opinion of Tenant, such title report shows any defects of title or any liens or encumbrances which may adversely affect Tenant's use of the Property and the Building or Tenant's ability to obtain leasehold financing, Tenant shall have the right to terminate this Lease immediately upon written notice to Landlord.

c. Tenant shall also have the right to have the Property surveyed, and, in the event that any defects are shown by the survey which, in the opinion of Tenant, may adversely affect Tenant's use of the Premises or Tenant's ability to obtain leasehold financing, Tenant shall have the right to terminate this Lease immediately upon written notice to Landlord.

20. Emergency Measures. Landlord acknowledges that Tenant, as a telecommunications carrier, has an obligation to provide its services at all times, even in times of power failures, natural disaster, civil commotion and other emergencies. Accordingly, Landlord agrees that Tenant shall have the right to bring all equipment and personnel onto the Premises and the Property, to the extent necessary, as may be reasonably necessary to allow Tenant to continue its operations in the face of such emergencies.

21. Assignment. Tenant may not assign the Lease and its other rights under this Agreement (including, without limitation, any options to extend the term of the Lease), or sublet the Premises or any portion thereof, without the prior written consent of Landlord, which consent shall not be unreasonably withheld. Notwithstanding the preceding sentence, upon notice to Landlord, Tenant may assign this Agreement to an affiliate, subsidiary or parent of Tenant. Any sublease that is entered into by Tenant shall be subject to the provisions of the Lease.

22. Successors and Assigns. This Agreement shall run with the Property, and shall be binding upon and inure to the benefit of the parties, their respective successors, personal representatives and assigns.

23. Waiver of Landlord's Lien. Landlord hereby waives any and all lien rights it may have, statutory or otherwise, concerning the Antenna Facilities and other equipment or trade fixtures brought onto the Premises by Tenant, all which shall be deemed personal property for the purposes of this Agreement, regardless of whether or not same is deemed real or personal property under applicable laws, and Tenant shall have the right to remove all or any portion of same from time to time in Tenant's sole discretion and without Landlord's consent.

24. Leasehold Financing. Tenant may, upon notice to Landlord, mortgage or grant a security interest in this Agreement, the Lease, and the Antenna Facilities, and may assign the Lease and the Antenna Facilities to any such mortgagees or holders of security interests including their successor or assigns (collectively, "Mortgagees"). In such event, Landlord shall execute such consent to leasehold financing as may reasonably be required by Mortgagees. Landlord agrees to notify Tenant's Mortgagees simultaneously of any default by Tenant and to give Mortgagees the same right to cure any default as Tenant, except that the cure period for any mortgagee shall not be less than ten (10) days after receipt of the default notice. Neither Tenant's assignment of the Lease nor the subletting of the Premises shall relieve Tenant of its obligation under the Lease, unless Landlord releases Tenant in writing.

25. Environmental Matters.

a. Tenant represents and warrants to Landlord that Tenant will not generate, store or dispose of any hazardous materials on, under or about the Property in violation of any hazardous substance laws (as defined below). Tenant shall indemnify and hold Landlord harmless from any losses, claims, damages, penalties and liabilities arising from any breach of the foregoing representations and warranties.

b. Landlord represents and warrants to Tenant that the statements made by Landlord in the Environmental Questionnaire attached hereto as Exhibit "D", which is incorporated herein by this reference, are true and correct.

c. Landlord shall indemnify and hold harmless Tenant, its partners, directors, officers, employees, and agents, and any assignees, subtenants, or successors to Tenant's interest in the Premises, their partners, directors, officers, employees, and agents, from and against any and all losses, claims, damages, penalties, and liability, including all out-of-pocket litigation costs and the reasonable fees and expenses of counsel and experts, including without limitation all consequential damages directly or indirectly arising out of the use, generation, storage, release, or disposal of hazardous materials by Landlord, its agents, or contractors prior to execution of this Agreement or at any time after execution, or by any prior owner or operator of the Property, and also from and against the cost of any required repair, cleanup, or detoxification and any closure or other required plans to the full extent that such action is attributable, directly or indirectly, to the presence or use, generation, storage, release, threatened release, or disposal of hazardous materials by any person on, under, or in the Property.

d. If any cleanup, repair, detoxification, or other similar action is required by any governmental or quasi-governmental agency as a result of the storage, release, or disposal of hazardous materials by Landlord, its agents or contractors, at any time, or by any prior owner, possessor, or operator of any part of the Property, and such action interferes with Tenant's normal use of the Premises for greater than a twenty-four (24) hour period, then the Rent will be abated entirely during the period beyond twenty-four (24) hours; in addition, Tenant shall have the rights set forth in Paragraph 8 of this Agreement.

e. In this Paragraph, "hazardous materials" includes, but is not limited to, substances defined as "hazardous substances," "hazardous materials," or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq.; and those substances defined as hazardous, toxic, hazardous wastes, toxic wastes, or as hazardous or toxic

substances by any law or statute now or after this date in effect in the state in which the Premises are located; and in the regulations adopted and publications promulgated pursuant to those laws (all collectively "hazardous substance laws").

f. The provisions of this Paragraph will survive the expiration or termination of this Agreement and the Lease.

26. Relocation of Premises. Landlord shall be entitled to have the Premises relocated to a different location on the rooftop of the Building pursuant to the following conditions: i) the alternate location must satisfy Tenant's cell site requirements, and ii) the costs of any such relocation of the Premises and the relocation of Tenant's facilities associated therewith shall be solely the responsibility of the Landlord. Within one year after agreeing to the relocation of the Premises and its facilities located thereon, Tenant shall complete such relocation, at the expense of the Landlord (Tenant shall be free to continue to use the original Premises during such period). In the event an alternate site cannot be agreed upon by the parties or if Landlord declines to pay for the cost of any such relocation, then Landlord's ability to obtain a relocation of the Premises under this paragraph shall terminate and be of no effect.

27. Miscellaneous.

a. The substantially prevailing party in any litigation or other proceeding arising under this Agreement shall be entitled to its court costs and reasonable attorneys' fees (which, for Landlord, shall include the reasonable value of services rendered by the City Attorney's Program), including appeals, if any.

b. Each party agrees to furnish to the other such truthful estoppel information as the other may in writing reasonably request, upon not more than thirty (30) days' prior notice.

c. This Agreement and all addenda and exhibits attached hereto constitute the entire agreement and understanding of the parties, and supersedes all offers, negotiations and other agreements. There are no representations or understandings of any kind not set forth herein. Any amendments to this Agreement must be in writing and executed by both parties. All addenda and exhibits attached to this Agreement are incorporated herein by this reference.

d. If either party is represented by a real estate broker in this transaction, that party shall be fully responsible for any fee due such broker, and shall hold the other party harmless from any claims for commission by such broker.

e. Landlord agrees to cooperate with Tenant in executing (or obtaining the execution by third parties, as the case may be) any documents necessary to protect

Tenant's rights under this Agreement or Tenant's use of the Premises. Such documents may include, without limitation, a short-form memorandum of this Agreement (which may reference the various option rights of Tenant under this Agreement), a short form memorandum of the Lease, the easement agreements pursuant to Paragraph 9 of this Agreement, a waiver of Landlord's interest in the Antenna Facilities pursuant to Paragraph 25 above, and a non-disturbance agreement from any existing or future mortgagee or ground lessor assuring that Tenant may remain in possession of the Premises without reduction in its rights under this Agreement should Landlord default under said mortgage or ground lease. All of the foregoing documents must be commercially reasonable in content and in a form suitable for recordation, and shall be executed by Landlord not later than thirty (30) days after Tenant's request therefor.

Upon the expiration or earlier termination of this Agreement, Tenant will, if requested by Landlord, record a quitclaim deed to evidence the termination of Tenant's interest in the Property.

f. This Agreement shall be construed in accordance with the laws of the state in which the Property is located. The provisions of this Agreement shall be construed in accordance with the fair meaning of the language used and shall not be strictly construed against either party. If the parties delete any provisions appearing in the original draft of this Agreement, this Agreement shall be interpreted as if the deleted language were never a part of this Agreement.

g. Landlord has informed Tenant that although Landlord owns the Building, it is the lessee of the Property. The Property is subject to that certain Ground Lease ("Ground Lease") dated December 28, 1964, between Thomas E. Laubacher, Richard V. Laubacher, Marion L. Sweetland and Claire L. Berg, as Lessor ("Master Landlord") and 301 "B" Street, Inc. (Landlord's predecessor in interest with respect to the Ground Lease) as "Lessee," inasmuch as Landlord is the subassignee of Lessee. In compliance with section 9 of said Ground Lease, the following provisions are included in this Lease:

(1) This Lease is subject to all of the terms and provisions of the Ground Lease.

(2) In the event Tenant defaults in any of the provisions of this Lease on the part of Tenant to be performed, after notice of such default and the failure to cure same by Tenant, Landlord may, after the expiration of the notice period, re-enter the Premises by summary proceedings or otherwise have the right to expel Tenant and (i) terminate the lease, or (ii) relet the Premises for the account of Tenant without terminating this Lease. The notice period for any default shall not exceed thirty (30) days for non-payment of Rent and shall not exceed sixty (60) days for the failure to perform any other provisions under this Lease on the part of Tenant to be performed,

unless the performance of such other provisions cannot be reasonably accomplished within said sixty (60) day period, in which case Tenant may be permitted to additional time reasonably necessary to complete performance.

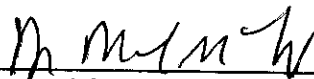
Landlord represents this Lease does not violate any provision of the Ground Lease, and that no provisions of this Lease are in conflict with any provisions of the Ground Lease. Landlord represents that it will comply with all terms of the Ground Lease and will not allow said Ground Lease to be terminated during the term of this Lease. Landlord further agrees to cooperate with and assist Tenant in obtaining a non-disturbance agreement from the Master Landlord, or its successor in interest, as the case may be, satisfactory to Tenant as provided for in Paragraph 27.e., above. The receipt of Tenant of the non-disturbance agreement shall be a condition to the effectiveness of this Lease.

h. If any term of this Agreement is found to be void or invalid, such invalidity shall not affect the remaining terms of this Agreement, which shall continue in full force and effect.

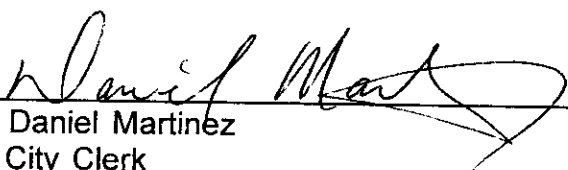
DATED as of the date first set forth above.

LANDLORD:

City of Oxnard


By: Dr. Manuel M. Lopez
Its: Mayor
Tax ID: 95-6000756

Attest:


By: Daniel Martinez
Its: City Clerk

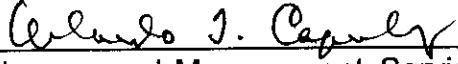
Approved as to Form:


By: Gary L. Gillig, Esq.
Its: City Attorney

Signatures Continue. . .

Signatures Continued. . .

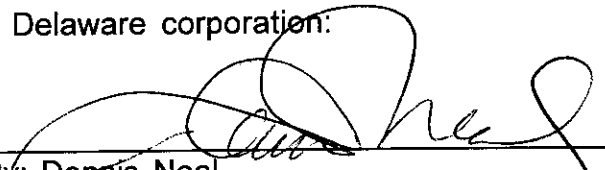
Approved as to Content:



Finance and Management Services

TENANT:

AT&T Wireless Services of California, Inc.,
a Delaware corporation:



By: Dennis Neal
Its: Site Development Manager

CERTIFICATE OF ACKNOWLEDGMENT

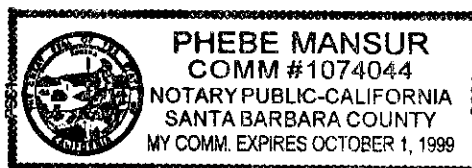
STATE OF California
COUNTY OF Santa Barbara

On Nov 18, 1996 before me, Phebe Mansur, Notary Public, personally appeared Dennis E. Neal, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature

Phebe Mansur



CERTIFICATE OF ACKNOWLEDGMENT

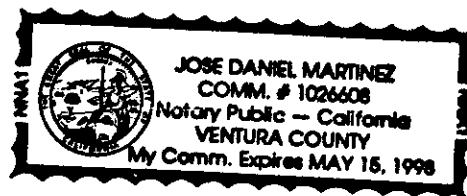
STATE OF California
COUNTY OF Ventura

On November 20, 1996 before me, Jose Daniel Martinez, Notary Public, personally appeared Dr. Manuel M. Lopez, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature

Jose Daniel Martinez



CERTIFICATE OF ACKNOWLEDGMENT

STATE OF _____
COUNTY OF _____

On _____ before me, _____, Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF _____
COUNTY OF _____

On _____ before me, _____, Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF _____
COUNTY OF _____

On _____ before me, _____, Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF _____
COUNTY OF _____

On _____ before me, _____, Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____

RG11898.3

EXHIBIT A

to the Option and Rooftop Lease Agreement (improved Real Property) dated November 19, 1996 by and between the City of Oxnard as Landlord, and AT&T Wireless Services of California, Inc., a Delaware corporation, as Tenant.

The Property is legally described as follows:

Lots 1, 2, 3, and 4, Block C, Town of Oxnard, in the City of Oxnard, County of Ventura, State of California, as per Map recorded in Book 5 Page 9 of Maps in the office of the County Recorder of said County.

Exhibit A
Page 1 of 1

EXHIBIT B

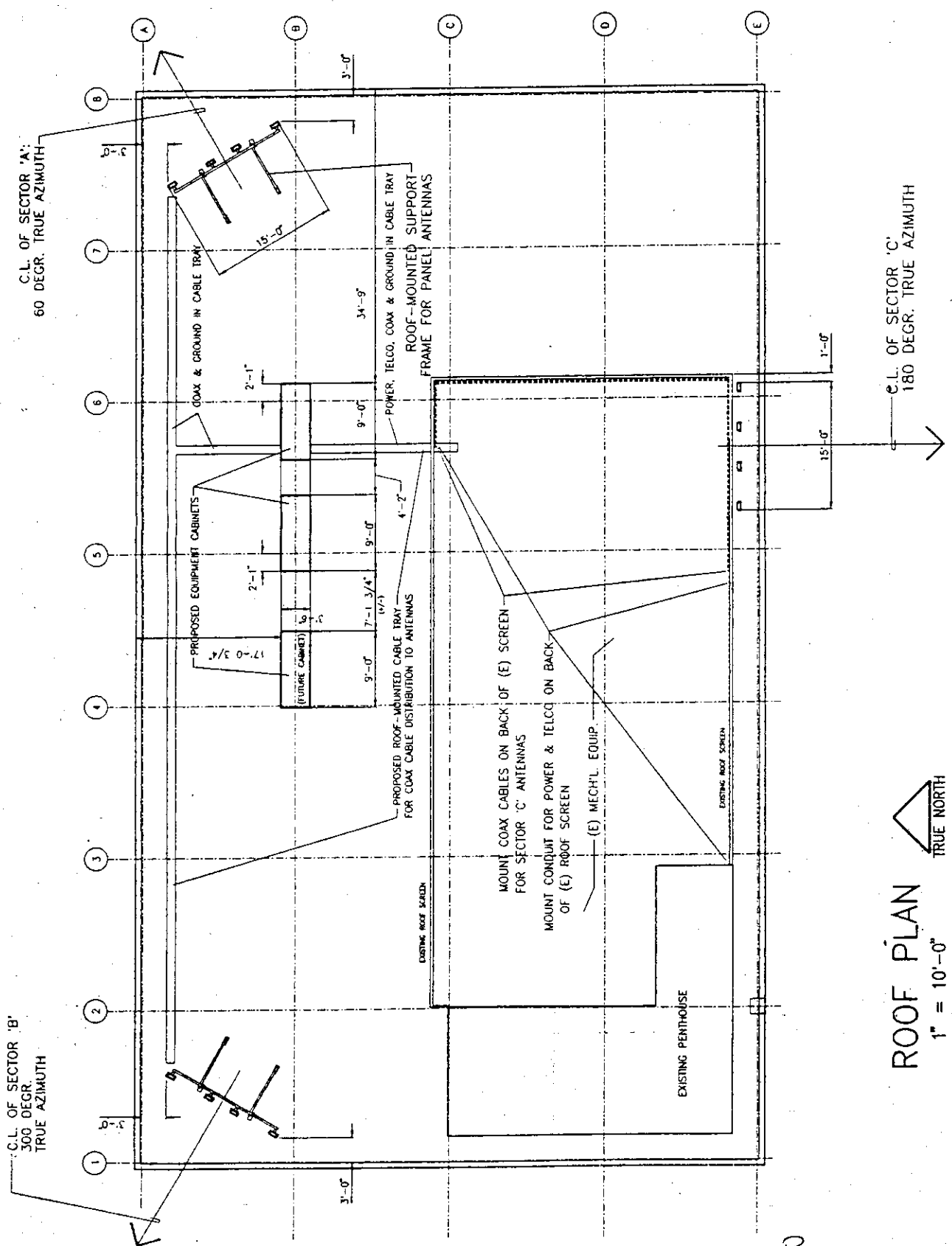
to the Option and Rooftop Lease Agreement (improved Real Property) dated November 19, 1996 by and between the City of Oxnard as Landlord, and AT&T Wireless Services of California, Inc., a Delaware corporation, as Tenant.

The location of the Premises within the property is more particularly described or depicted as follows:

[See attached page]

Exhibit B
Page 1 of 2

SITE NAME
 AT&T WIRE
 PROJECT
 300 W. G
 OXNARD,
 LEASE H
 (APPLICA
 AT&T WIR
 6485 Cal
 Goleta, C
 805/681
 Planning
 Emily
 electron
 Bob A
 Site Dev
 Denni
 LEGAL DE
 BLOCK C



C.L. OF SECTOR 'A':
 300 DEGR. TRUE AZIMUTH
 C.L. OF SECTOR 'B':
 60 DEGR. TRUE AZIMUTH
 C.L. OF SECTOR 'C':
 180 DEGR. TRUE AZIMUTH
 TRUE NORTH
 1" = 10'-0"

Exhibit B
 Page 2 of 2

EXHIBIT C

to the Option and Rooftop Lease Agreement (improved Real Property) dated November 19, 1996 by and between the City of Oxnard as Landlord, and AT&T Wireless Services of California, Inc., a Delaware corporation, as Tenant.

The following is a list of ground leases, liens, mortgages and other encumbrances currently on the Property:

- Y 1. A LEASE WITH CERTAIN TERMS, COVENANTS, CONDITIONS AND PROVISIONS SET FORTH THEREIN.
- LESSOR: Thomas E. Laubacher, a married man; Richard V. Laubacher, a married man and Marion L. Sweetland, a married woman, all dealing with their separate property and Claire L. Berg, a widow in equal shares
- LESSEE: 301 "B" Street, Inc.
- RECORDED: March 1, 1965 in Book 2739, Page 197, Official Records

The interest of Claire L. Berg has passed to Ralph Berg.

The interest of Marion L. Sweetland has passed to Ventura County Seed Growers, Inc.

The interest of Thomas E. Laubacher has passed to Thomas E. Laubacher and Helen E. Laubacher, Trustees of the Thomas and Helen Laubacher 1989 Family Trust created under Declaration of Trust dated August 22, 1989;

The interest of Richard V. Laubacher has passed to Richard V. Laubacher, as Trustee of The Laubacher Family Trust dated 12-22-89.

Assignment of the lessee's interest under said lease.

Assignor: 301 "B" Street, Inc.
Assignee: 300 West Third Street

Recorded: January 5, 1966 in Book 2922, Page 522, Official Records

Assignment of the lessee's interest under said lease.

Assignor: 300 West Third Street
Assignee: City of Oxnard
Recorded: February 18, 1976 in Book 4540, Page 950, Official Records

Exhibit C
Page 1 of 1

EXHIBIT D

ENVIRONMENTAL QUESTIONNAIRE AND DISCLOSURE STATEMENT (to be completed by Landlord/Seller)

Landlord/Seller City of Oxnard

Tenant/Buyer _____

Property 300 W. 3rd st.

Location Oxnard, Ca.

Cell Site I.D. _____

A. Current/Former Uses of the Property

1. Name of current and all former owner(s):

City of Oxnard

2. Description of current use(s) of the Property, including name(s) of current occupant(s) and date(s) of occupancy:

City of Oxnard staff

3. Name(s) of previous occupant(s):

N/A

4. Description of previous use(s) of the Property:

N/A

5. Description of uses of adjacent properties:

COMMERCIAL OFFICE BUILDINGS,

Exhibit D
Page 1 of 16

B. Information Regarding Asbestos

1. Is there currently asbestos in any of the construction materials contained in the building?

YES

2. If so, has a survey been conducted to assess the type, amount, location and conditions of asbestos? (If so, please attach a copy of any survey report.)

YES (SEE ATTACHED)

3. Have asbestos air samples been taken? If so, what are the results?

YES (SEE ATTACHED)

C. Polychlorinated Biphenyls ("PCBs")

1. Have polychlorinated biphenyls ("PCBs") been used in electrical transformers, capacitors or other equipment at the Property?

NO

2. If so, please describe the use and quantity of PCBs used on the Property.

N/A

D. Fuel/Chemical Storage Tanks, Drums and Pipelines

1. Are there any above-ground or underground gasoline, diesel, fuel oil or other chemical storage tanks on the property?
NO
2. If so, please describe substances stored and capacity of tank(s).
N/A
3. Have the tanks been inspected or tested for leakage? When was the most recent test? What were the results?
N/A
4. Are any other chemicals stored on the Property in drums or other containers? If so, please describe the substances, quantities stored, and types of containers.
ND
5. Have there been any spills, leaks, or other releases of chemicals on the Property? If so, please describe the chemicals and quantities released, any cleanup measures taken, and the results of any soil or ground water samples performed to detect the presence of the chemicals spilled, leaked, or released on the Property.
N/A
6. Please attach copies of any permits or licenses pertaining to the use, storage, handling, or disposal of chemicals on the Property.

7. Have the tanks been registered with or inspected by any governmental agency?

N/A

F. Air Emissions

1. Describe air emissions from each source of air pollutants, including fuel burning equipment (describe type of fuel burned), on the Property.

Roof Top Water Boiler

2. Describe air pollution control equipment used to reduce emissions for each source of air emissions.

N/A Does Not REQUIRE EMISSION Controls
UNDER V.C. A.Q.M.D. B.T.U. REQUIREMENTS

3. Are air emissions monitored? If so, indicate frequency of monitoring.

NOTE SEE #2 ABOVE

4. Please attach copies of any air permits or licenses pertaining to operations on the Property.

F. Water Discharges

1. List all sources of waste water discharges to surface waters, septic systems, or holding ponds:

N/A

FIRST INTERSTATE BANK BUILDING

Friable Materials

Pipe Insulation

The pipe, fitting and valve insulation found on the roof HVAC equipment, the penthouse Boiler Room, and fittings located within the ceiling or attic cavities throughout this building are asbestos-containing.

The pipe insulation in the Boiler Room is in need of minor repair.

↑ INSULATION HAS BEEN ABATED 6/24/92

The fitting insulation on the exposed pipe on the roof has completely deteriorated. The remaining ACM should be removed and new insulation installed.

↑ INSULATION HAS BEEN ABATED 12/15/91

Tank Insulation

The Boiler Room contains a hot water holding tank that has an asbestos-containing insulation. This material can remain in place until budgeted for removal or until the tank or its associated piping require repair.

Non-Friable Materials

Roofing

In roofing materials, any asbestos is heavily bonded in the petroleum-based mixture. They would become friable only if roughly torn or cut. They do not pose a hazard under ordinary circumstances.

FIRST AMENDMENT TO OPTION AND ROOFTOP LEASE AGREEMENT

This First Amendment, dated August 1, 2006, amends that certain Option and Rooftop Lease Agreement ("the Lease"), dated November 19, 1996, entered into by and between the City of Oxnard ("Landlord") and AT&T Wireless Services of California, Inc. ("Tenant"), whereby Landlord leases to Tenant a portion of the rooftop of a four story building located at 300 West Third Street, Oxnard, California, for the purpose of placing wireless communications equipment thereon.

WHEREAS, AT&T Wireless Services of California, Inc. sold and assigned its interest in the Lease to New Cingular Wireless PCS, LLC, a Delaware limited liability company, located at 6100 Atlantic Boulevard, Norcross, Georgia 30071; and

WHEREAS, New Cingular Wireless PCS, LLC wishes to place different and additional wireless communications equipment on the rooftop and has obtained from the City of Oxnard a wireless permit (PZ 06-230-01) to do so; and

WHEREAS, Landlord now owns the real property on which the building is located, and continues to own the building itself; and

WHEREAS, the parties wish to provide for different rent to be paid to Landlord;

NOW, THEREFORE, the parties agree that the Lease is amended as follows:

1. Pursuant to section 21 of the Lease, Landlord consents to AT&T Wireless Services of California, Inc.'s assignment of the Agreement to New Cingular Wireless PCS, LLC, which is the entity that shall hereinafter be referred to as "Tenant" in the Lease.
2. Exhibit B-1, attached hereto and incorporated herein by reference, shall replace Exhibit B of the Lease.
3. The following sentence is added at the end of subsection a of section 7 of the Lease: "Beginning on August 1, 2006, the Rent shall be Two Thousand Five Hundred Dollars (\$2500) per month."
4. Subsection c of section 7 of the Lease is amended to read: "Beginning on August 1, 2007, and on each August 1 thereafter that this Lease is in effect, the Rent shall be adjusted by the percentage change since May 1 of the previous year in the Consumer Price Index

COUNCIL APPROVAL

DATE: 08/01/06 AGENDA # I-2

prepared by the Bureau of Labor Statistics for the Los Angeles-Anaheim- Riverside area relating to all urban consumers.”

5. Subsection (d) is added to section 9 of the Lease, to read:

“(d) Tenant shall comply with all tower marking and lighting and other requirements of the Federal Aviation Commission and the Federal Communications Commission. Tenant indemnifies and holds Landlord harmless from any liability and fines arising from Tenant’s failure to comply with such requirements.”

6. The following sentence is added at the beginning of section 13 of the Lease: “This Agreement may create a taxable property interest in the Premises.”

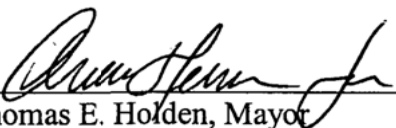
7. Section 19(a) of the Lease shall read as follows: “Landlord warrants that it (i) has full right, power and authority to execute this Lease; (ii) has good and unencumbered title to the Building free and clear of any ground leases, liens, mortgages or other encumbrances that would interfere with Tenant’s intended use of the Premises; and (iii) has the power to grant the access rights as set forth in Paragraph 9(c) above. Landlord further warrants that Tenant shall have the quiet enjoyment of the Premises during the term of this Lease.”

8. Exhibit C of the Lease is deleted.

9. Subsection (g) of section 27 of the Lease is deleted.

Dated: August 1, 2006.

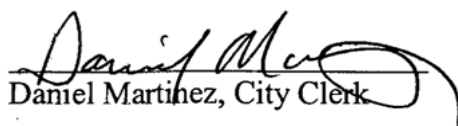
LANDLORD
City of Oxnard


Thomas E. Holden, Mayor

TENANT
New Cingular Wireless PCS,
LLC, a Delaware Limited
Liability ~~Corporation~~ Company

Emily Vaughan
Development Manager

ATTEST:


Daniel Martinez, City Clerk

APPROVED AS TO FORM:

Paula Kimball for
Gary L. Gillig, City Attorney

APPROVED AS TO CONTENT:

Karen R. Burdette (for)
Edmund F. Sotelo, City Manager

SECOND AMENDMENT TO OPTION AND ROOFTOP LEASE AGREEMENT

THIS SECOND AMENDMENT ("**Second Amendment**") to the Option and Rooftop Lease Agreement ("**Agreement**") is made and entered into in the County of Ventura, State of California, this 1st day of April, 2015, by and between the City of Oxnard, a municipal corporation ("**Landlord**"), and New Cingular Wireless PCS, LLC, a Delaware Limited Liability Company ("**Tenant**"). This Second Amendment amends the Option and Rooftop Lease Agreement entered into on November 19, 1996, whereby Landlord leases to Tenant a portion of the rooftop of a four story building located at 300 West Third Street, Oxnard, California, for the purpose of placing wireless communication equipment thereon. The Agreement has previously been amended on August 1, 2006, by a First Amendment to Option and Rooftop Lease Agreement.

Landlord and Tenant agree as follows:

1. Section 9(c) of the Lease shall be amended to read as follows:

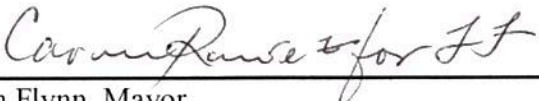
"Landlord shall provide Tenant ingress and egress from an open and improved public road, and access over and across the Property and to and within the Building adequate to service the Antenna Facilities at all times during the term of this Lease or any renewal thereof at no additional charge to Tenant. Tenant shall be entitled to twenty-four (24) hour, seven (7) days per week, access to the Premises. Access shall be provided by Landlord's staff within forty-five (45) minutes of notification by Tenant to Landlord by calling 805-385-8099 during normal business hours or 805-385-7600 after hours and requesting access or by calling such other phone number that Landlord may provide Tenant for the purpose of prior notification. Additionally, all Tenant personnel, whether employee or contractor, shall display proper credentials at all times while on Premises."

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

[SIGNATURES ON FOLLOWING PAGE]

LANDLORD

CITY OF OXNARD,
a municipal corporation



Tim Flynn, Mayor

TENANT

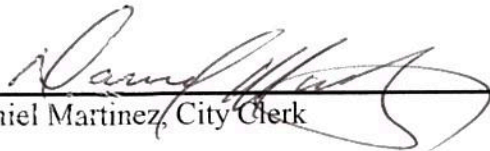
NEW CINGULAR WIRELESS PCS, LLC,
a Delaware Limited Liability Company

By: ATT Mobility Corporation
Its: Manager



James Stickney,
Director Construction & Engineering

ATTEST:



Daniel Martinez, City Clerk

APPROVED AS TO FORM:



Stephen M. Fischer, Interim City Attorney

APPROVED AS TO CONTENT:



Greg Nyhoff, City Manager

TENANT ACKNOWLEDGMENT

STATE OF _____)
) ss:
COUNTY OF _____)

On the ____ day of ~~THE~~ **ATTACHED**, 20__, before me personally appeared _____, and acknowledged under oath that he/she is the _____ of AT&T Mobility Corporation, the Manager of New Cingular Wireless PCS, LLC, the Tenant named in the attached instrument, and as such ~~was~~ authorized to execute this instrument on behalf of the Tenant.

Notary Public: _____
My Commission Expires: _____

LANDLORD ACKNOWLEDGMENT

STATE OF _____)
) ss:
COUNTY OF _____)

On the ____ day of _____, 20__ before me, personally appeared _____, who acknowledged under oath, that he/she is the person/officer named in the within instrument, and that he/she executed the same in his/her stated capacity as the voluntary act and deed of the Landlord for the purposes therein contained.

Notary Public: _____
My Commission Expires: _____

ACKNOWLEDGEMENT

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document

State of California
County of Orange)

On June 10, 2015 before me, Katelyn S. Voss, Notary Public, personally appeared James Stickney, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



(Seal)

EXHIBIT 2
Recording Document Entitled
“Memorandum of Third Amendment to
Lease”

Recording Requested By
& When Recorded Return To:

Black Dot Wireless
23456 Madero, Suite 210
Mission Viejo, CA 92691

(Space Above This Line For Recorder's Use Only)

Re: Cell Site No. SBOV37
Cell Site Name: SBOV37-01 CENTRAL OXNARD (CA)
Fixed Asset Number: 10086895
State: California
County: Ventura

**MEMORANDUM
OF
THIRD AMENDMENT TO LEASE**

This Memorandum of Third Amendment to Lease (hereinafter referred to as the “**Memorandum**”) is entered into on this ____ day of _____, 2023, by and between the City of Oxnard, a municipal corporation, having a mailing address at 305 West Third Street, Oxnard, CA 93030 (hereinafter referred to as “**Landlord**”) and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of 1025 Lenox Park Boulevard NE, 3rd Floor, Atlanta, GA 30319 (hereinafter referred to as “**Tenant**”).

1. Landlord and Tenant (or its predecessor-in-interest) entered into a certain an Option and Rooftop Lease Agreement dated November 19, 1996, as amended by the First Amendment to Option and Rooftop Lease Agreement dated August 1, 2006, the Second Amendment to Option and Rooftop Lease Agreement dated April 1, 2015, and that certain Third Amendment to Option and Rooftop Lease Agreement dated _____, 2023 (hereinafter, collectively referred to as the “**Agreement**”) for the purpose of installing, operating and maintaining a communications facility and other improvements at Landlord’s real property located at 300 West Third Street, Oxnard, CA 93030. All of the foregoing is set forth in the Agreement. A Memorandum of Rooftop Lease was recorded November 22, 2006 as Document No. 96-160718 in the Official Records of Ventura County.

2. The term of the Agreement initially commenced November 20, 1996 and the parties agree to further extend the term of the Agreement for a new initial lease term of five (5) years commencing on May 1, 2023, with one (1) successive five (5) year option to renew.
3. The portion of the land being leased to Tenant (the “**Premises**”) is described in **Exhibit 1** annexed hereto.
4. This Memorandum is not intended to amend or modify, and shall not be deemed or construed as amending or modifying, any of the terms, conditions or provisions of the Agreement, all of which are hereby ratified and affirmed. In the event of a conflict between the provisions of this Memorandum and the provisions of the Agreement, the provisions of the Agreement shall control. The Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, successors, and assigns, subject to the provisions of the Agreement.

[SIGNATURES APPEAR ON THE NEXT PAGE]

IN WITNESS WHEREOF, the parties have executed this Memorandum of Third Amendment to Lease as of the day and year first above written.

LANDLORD:

City of Oxnard, a municipal corporation

By: _____

Name: _____

Title: _____

Date: _____

TENANT:

New Cingular Wireless PCS, LLC,
a Delaware limited liability company

By: AT&T Mobility Corporation
Its: Manager

By: 

Name: Misty Snowden

Title: Area Manager

Date: 5/2/23

[ACKNOWLEDGMENTS APPEAR ON THE NEXT PAGE]

LANDLORD ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of _____)

On _____ before me, _____
(insert name and title of the officer)

personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Orange

On May 02, 2023 before me, Joyce Story - Notary Public
(insert name and title of the officer)

personally appeared Misty Snowden,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature Joyce Story (Seal)

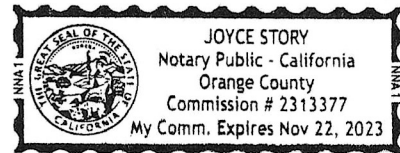


EXHIBIT 1

DESCRIPTION OF PREMISES

Page 1 of 1

to the Memorandum of Third Amendment to Lease dated_____, 2023, by and between the City of Oxnard, a municipal corporation, as Landlord, and New Cingular Wireless PCS, LLC, a Delaware limited liability company, as Tenant.

The Premises are a portion of the Property located at 300 West Third Street, Oxnard, CA 93030 and legally described and/or depicted as follows:

Lots 1, 2, 3, and 4, Block C, Town of Oxnard, in the City of Oxnard, County of Ventura, State of California, as per Map recorded in Book 5 Page 9 of Maps in the office of the County Recorder of said County.

PARTNERS 2000 PROGRAM

The Partners 2000 Program ("Program") reflects our commitment to offering to our qualified customers, in addition to discounted rates for Wireless Service, an array of Wireless Consulting Services, certain enhanced Wireless Services, and Preferred Customer opportunities. This unique Program provides to the qualified customer, not only the most economic rate plan(s) we have available, but also, a menu of non-tariffed opportunities and professional communication needs support from which to choose.

TERMS AND CONDITIONS

This is an Agreement between the Customer the City of Oxnard, ("you") and AT&T Wireless Services ("us" "we" or "our") for cellular services and related communications consulting services. The Agreement incorporates herein by reference Exhibit A ("Order for Cellular Telephone Service"), Addendum A ("General Terms and Conditions for Wireless Service") and Addendum B ("Government Plan Agreement"). In the event of any conflict between the Agreement and any such document, the terms of the Agreement shall prevail. In the event you choose to exercise certain of the available menu opportunities under the Partners 2000 Program, such as the Wireless Office Service, or the Wireless Information Navigator, an additional Addendum may be required.

- **ELIGIBILITY AND SERVICE SUBSCRIPTION / TERM.** This Agreement is for a period of two years commencing December 31, 1996, and is subject to the General Terms and Conditions for Wireless Service attached as Addendum A and incorporated herein. Eligibility is based upon your exclusive use of our cellular service and you committing to either our Enhanced or Basic Option(s).
 - The Basic Option requires a minimum total monthly billing of \$2,000 (tariffed minimums will apply) generated over a minimum of ten to a maximum of fifty wireless phones and activated numbers.
 - The Enhanced Option requires a minimum total monthly billing of \$2,000 (tariffed minimums will apply) generated over a minimum of fifty-one wireless phones and activated numbers.In the event your usage falls below the threshold Option Level for two consecutive billing periods, the benefits and discounts of the Partners 2000 Program will terminate and your account will transition to a standard rate plan which better meets your Wireless needs for the remainder of the two year term.
- **ACCOUNT LEVEL VOLUME DISCOUNT.** Government rate plan which will give you savings based upon the total volume of calls you make. Please see Addendum B for further explanation. In addition, it will be noted that this agreement entitles you to move to the most cost effective rate plan upon your notification to us.
- **WIRELESS INFORMATION NAVIGATOR (WIN).** Enhanced Option participants are entitled to have access to the WIN billing system to enable you to monitor and trend your monthly wireless expense. This CD ROM based billing system will be provided to you for no additional monthly cost during the term of the agreement. You must execute the appropriate WIN software license and agree to be bound by its terms.

Partners 2000

- *TECHNOLOGY PROTECTION FEATURE*. For new cellular subscribers, we will offer you the promotional price for equipment at the time of activation. At any time during the life of this agreement, you have the ability to upgrade any existing cellular telephone that is at least one year old, for a new one. The price that you will pay will be determined by the promotional price that we charge for any new customer. You will also receive all of your accessories at our cost and all installations done at our facility will be performed for free.
- *COMMUNICATIONS NEEDS ANALYSIS AND TECHNOLOGY BRIEFINGS*. As a member of the PARTNERS 2000 Program, you are entitled to:
 - Semi-Annual, one hour briefings on the latest of Wireless Technology.
 - Wireless Office Service Needs Analysis, and consultation regarding application and installation; a separate service addendum and one time hardware installation fee may apply.
 - Virtual Office Program interface with our experts who will assist with Virtual Office needs analysis and recommendations.
 - A specialized Account Executive will be assigned to you and will provide quarterly account review analysis; the Account Executive will be available, on call, to answer concerns.
 - On Site Training will be provided on a regular basis for cellular users.
- *MISCELLANEOUS BENEFITS*.
 - Business Card Reimbursement*. A one time reimbursement for printing of business cards at a level not to exceed \$10 per Basic Option Participant cellular number and \$20 per Enhanced Option Participant cellular number will be available during the initial six months of subscription to the Program.
- *EFFECT OF TERMINATION FROM PROGRAM -- LIQUIDATED DAMAGES AND RETURN OF EQUIPMENT*. In the event your participation in the "Program" is terminated by your default under Addendum A, Addendum B, or otherwise by failure to maintain eligibility status, all terms and services offered under this Agreement will cease immediately upon notice from us to you. It is expressly understood and agreed that we have incurred considerable expense in packaging and providing the array of non-tariffed services and product availability's for your benefit, and that the termination of this Agreement prior to the term will result in a Cancellation Fee of \$2,500 plus full reimbursement for all sums expended by us in the current calendar year for business card reimbursement expenses. The Cancellation Fee is a liquidated damage amount assessed due to the difficulty of determining the actual damages we would sustain. This Liquidated Damage amount is in addition to any Cancellation Fee due under Addendum A or Addendum B.

Partners 2000

The Parties have executed this Agreement through their respective duly-authorized representatives on this 31st. day of December 1996.

City of Oxnard

By Art Klein

Its Finance Director

300 W. 3rd. St.

Oxnard, CA 93030

AT&T Wireless Services

By L. Bart Jell

Its MAJOR ACCOUNT EXECUTIVE

751 Daily Dr. #116

Camarillo, CA 93010

ADDENDUM A

GENERAL TERMS AND CONDITIONS FOR WIRELESS SERVICE

This is a service agreement ("Agreement") for wireless radio telecommunications service ("Service") between you the "Customer", and AT&T Wireless Services ("us", "we" or "our"), which is licensed by the Federal Communications Commission ("FCC") to provide service your assigned number ("Number") within licensed areas. The term "Phone" means the wireless receiving and transmitting equipment which is programmed with the assigned number. Where terms and conditions relating to service are regulated, tariffs governing such terms and conditions are on file with the State Public Service or Public Utilities Commission or the FCC, and are available for your inspection. If there is any inconsistency between this Agreement and those tariffs, the tariffs will amend this Agreement. Tariffs have been filed with: The CA Public Utilities Commission, 505 Van Ness, San Francisco, CA 94102; The NV Public Service Commission, Capitol Complex, 727 Fairview Drive, Carson City, NV 89710; The HI Public Utilities Commission, 465 S. King St. #103, Honolulu, HI 96813.

SERVICE

Terms/Rates. The term of this Agreement for each Number begins on the date of Service activation for that Number and lasts until termination, as described below. Your service term, rates, and other service components are based on your selection of an available monthly service plan ("Monthly Plan") or other fixed term service(s) ("Fixed Plan"), and become part of this agreement. The Plan chosen applies separately to each Number originally or later activated under this Service Agreement. You are entitled to select the long distance carrier of your choice.

Availability/Interruption. Service is available to your Phone when the phone is turned on and is within our system operating range. Service availability and reliability is subject to limitation or interruption caused by governmental regulation; restrictions of an underlying carrier; topographic, geographic, or other environmental conditions; system repairs and changes; capacity limitations; problems with your Phone; our efforts to identify and combat potential or actual fraud; or for other legitimate business purpose(s). If you experience a problem with the quality of service, please call Customer Care.

Use of Service/Equipment/Number. You agree not to use the Phone or Service for any unlawful or abusive purpose which may create risk to us or the public. Resale of service is subject to pertinent regulatory approvals and/or prior contractual arrangements with us. You are responsible for ensuring that your phone is technically and operationally compatible with our Service and meets federal standards. You have no ownership rights to the Number; we may change your Number by giving you notice.

Privacy. Wireless Phones use radio channels to transmit voice and data; although laws prohibit listening in on wireless calls, your privacy cannot be guaranteed. We shall not be liable for any lack of privacy you may experience while using the service. You authorize our monitoring and recording of your calls or calls on your behalf to us concerning your account; you consent to our use of automatic equipment to phone you regarding your account. Pursuant to Federal Law, we reserve the right to intercept, disclose or use any transmitted communication that is obtained in the course of business while we are engaged in any activity that is a necessary incident to the rendition of service or to the protection of our rights or property;

Fraud. You may not assign the Number or the Phone Electronic Serial Number(ESN) to any other Phone; you may not program any other Number or ESN into the Phone. If your Phone is stolen and/or Service is fraudulently used or counterfeited, you must immediately notify us and promptly provide us with requested documentation and information(including affidavits and police reports). You agree to cooperate with us in any investigation and to use any fraud prevention or detection features/precautions as we may prescribe. If you comply and we are satisfied you were defrauded, you will not be charged for the fraudulent usage.

CHARGES/PAYMENTS/DEFAULT

Generally. You are responsible for paying all charges for Service furnished under this Agreement by us or another provider, including recurring monthly Service charges, charges for all calls sent from or received by your Phone or through any Number assigned to you, and charges for other services which you use. You may receive a separate bill for your long distance charges depending upon the long distance carrier you have selected. Service charges may include charges for services provided by other vendors, such as directory assistance charges, toll charges for calls made to points outside the local calling area, and roaming or network charges for calls made or received when outside the local calling area. We reserve the right to add a fee for processing third party charges. You are responsible for all applicable taxes and government imposed surcharges; tax exempt status must be documented and presented to us prior to adjustment of applicable taxes and/or surcharges. *You will be charged from the time you press "SND" (Send) until the time you press "END."* *You are billed only for calls in which a connection is made. Airtime usage charges are rounded up and are calculated in full-minute increments.*

Billing and Payment. Recurring monthly service charges are billed one month in arrears prorated for the number of days in the month the service is active. Usage charges are billed on a per minute basis (any partial minute may be billed as a whole minute). Billing cycles are approximately thirty days in length; billing cycle end dates may change from time to time. If you have authorized payment by credit card, no additional notice or consent will be required for billings to that credit card.

Late Payments/Disputes. Payment of all charges must be received by the due date shown on each invoice. *Time is of the essence for payment*, thus, in addition to all other charges, you agree to pay us liquidated damages of one and one-half percent (1.5%) per month of any amount unpaid when due for every month such amount remains unpaid. Liquidated damages shall be prorated daily for each day that payment is overdue, but shall not compound monthly. If a check is returned for insufficient funds, you shall pay a fee not to exceed \$15. Acceptance of late or partial payments (including checks marked "Paid in Full" or with other notations) shall not waive any of our rights to collect the full amount due under the Service Agreement. If we suspend your service for any reason, and later elect to reinstate you, we may require a reactivation fee including a \$15 reinstatement charge. *All disputes and partial payments must be in writing and must be received by us no later than the due date or the dispute will be waived.*

Default. If you do not pay the full amount of your bill by the Due Date, fail to perform any of other specified obligations stated in this agreement, or are subject to any proceeding under the Bankruptcy Act or other such debtor relief law, we may terminate service subject to applicable notice requirements, if any.

Deposits/Credit Reports/Balances. For purposes of determining credit worthiness, you authorize us to inquire of consumer reporting agencies or trade references to furnish us with employment and credit information. Based on such information, we may require a deposit to establish or maintain service. The deposit shall be held as a partial guarantee of payment. It cannot be used by you to pay your bill or delay payment. Deposits might be mixed with other funds. We may require you to increase your deposit at any time to reflect your estimated monthly charges, based on actual usage, or a change in your credit status. If you default or this Service Agreement is terminated, we may apply any deposit towards payment of charges due. After 90 days following termination, any remaining deposit or other credit balance in excess of \$10 shall be returned with interest to you at your last known address. If the Postal Service returns the deposit to us undelivered, the funds shall become ours.

Account Information. You consent to our disclosure of information about your account to any person able to provide your name, address, social security number, and the phone number assigned, and to the making of changes to the account by any such person. We may also disclose information about your account to your preferred long distance carrier.

CHANGES TO RATES, PLANS, SERVICE FEATURES

By us. We may change or modify this Agreement, including your rate plan and other service charges, upon advance notice. If you do not agree to such modification, you may terminate this agreement by giving us written notice within 15 days of receipt of our notice, and you will not be charged a cancellation fee.

By you. You may change Service features or rate plan(s) by notifying us and paying our standard charges, including any applicable cancellation fees to be effective during your next complete billing cycle. If you transfer to a plan having a term which is shorter than your previous plan, you shall remain obligated for the term of the previous plan. If we allow you to suspend your account for a temporary period, we may extend the term of your Agreement by the length of the temporary suspension. No modification or suspension shall be valid unless you are either notified in writing by us or the modification is reflected in our records system.

TERMINATION

Monthly Plan. A monthly plan Service Agreement lasts month to month until terminated by either party for any reason upon thirty days' notice. In the event of default by you, we may immediately terminate service upon notice.

Fixed Plan. If you select a plan with a fixed term, this agreement shall continue for the term selected. You are provided a special rate in exchange for your agreement to subscribe for a fixed term. IF YOU TERMINATE THIS AGREEMENT PRIOR TO THE END OF A FIXED TERM OR WE TERMINATE SERVICE FOLLOWING YOUR DEFAULT, YOU AGREE TO PAY US, IN ADDITION TO ALL OTHER AMOUNTS OWING, A CANCELLATION FEE IN THE AMOUNT SET FORTH ON THE FACE OF THIS AGREEMENT; THESE ARE LIQUIDATED DAMAGES DUE TO THE DIFFICULTY OF DETERMINING THE ACTUAL DAMAGES WE WOULD SUSTAIN. THE CANCELLATION FEE WILL BE ADJUSTED TO PROVIDE CREDIT FOR THOSE MONTHS FOR WHICH SERVICE PAYMENTS HAVE BEEN MADE. If, at the end of the term, you have not selected an alternate plan, the terms of this agreement will continue until termination by either of us upon 30 days notice.

LIMITATIONS

Limitation of Liability. WE SHALL NOT BE LIABLE IF OUR NONPERFORMANCE IS CAUSED BY ACT OR OMISSION OF ANOTHER CARRIER OR SERVICE PROVIDER, EQUIPMENT FAILURE OR MODIFICATION, ACTS OF GOD, STRIKES, FIRE, WAR, RIOT, GOVERNMENT ACTIONS, OR CAUSES BEYOND OUR REASONABLE CONTROL. WE ASSUME NO LIABILITY FOR SERVICE OUTAGES OF 24 HOURS OR LESS. OUR LIABILITY FOR ANY SERVICE FAILURE SHALL IN NO EVENT EXCEED THE SERVICE CHARGES DURING THE AFFECTED PERIOD. WE SHALL NOT BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES. WE SHALL NOT BE LIABLE FOR INJURIES TO PERSONS OR PROPERTY ARISING FROM USE OF THE PHONE OR THE SERVICE OR THE INSTALLATION OR REPAIR OF THE PHONE BY ANY PARTIES WHO ARE NOT OUR EMPLOYEES. YOU AGREE TO DEFEND, INDEMNIFY, AND HOLD US, OUR AFFILIATES AND AGENTS AND ANY UNDERLYING CARRIER, HARMLESS FROM CLAIMS OR DAMAGES RELATING TO THIS AGREEMENT AND YOUR USE OF THE SERVICE UNLESS DUE TO OUR SOLE NEGLIGENCE. YOU AGREE TO PAY OUR REASONABLE ATTORNEYS' AND EXPERT WITNESS FEES AND COSTS INCURRED IN ENFORCING OUR RIGHTS OR IN ESTABLISHING THE APPLICABILITY OF THIS PARAGRAPH. THIS PARAGRAPH SHALL SURVIVE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.

Long Distance Indemnification. We will make every effort to ensure your cellular service is connected to the long distance company of your choice. In the event you discover that your account has been inadvertently connected to a different long distance service, we will be liable only to the extent of connecting the service to your chosen carrier at the earliest opportunity after you notify us. We will not be liable for any charges incurred by you with another long distance company or any other charges.

Partners 2000

No Warranties. WE MAKE NO EXPRESS WARRANTY REGARDING THE SERVICE OR THE PHONE AND DISCLAIM ANY IMPLIED WARRANTY, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. WE DO NOT AUTHORIZE ANYONE TO MAKE A WARRANTY OF ANY KIND ON OUR BEHALF AND YOU SHOULD NOT RELY ON ANY SUCH STATEMENT. WE ARE NOT THE MANUFACTURER OF THE PHONE AND ANY STATEMENT REGARDING IT SHOULD NOT BE INTERPRETED AS A WARRANTY. THIS PARAGRAPH SHALL SURVIVE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.

MISCELLANEOUS

Authority. You acknowledge that you are of legal age, have received a true copy of this Agreement, and have read and clearly understood its terms. If signing on behalf of a corporation, other entity or person you guarantee your signature authority. If you are not authorized to sign, you personally guarantee payment of all charges.

Notices. Written notices to you shall be effective on the date deposited in the U.S. Mail addressed to your address of record. Written notice to us shall be effective when directed to our Customer Care Department and received at the FAX Number address set forth on the front of this Agreement. Your notice must specify your Number. Oral notices shall be deemed effective on the date reflected in our records.

Separability. If any part of this Agreement is found invalid, or is superseded, the balance of the Agreement shall remain enforceable, unless either party's rights are materially impaired.

Entire Agreement. This Services Agreement represents the entire agreement between you and us, which may not be amended except as provided herein. Each time you use your Service or remit payment of any bill, you re-affirm your agreement with us and give your approval to any amended provisions or acts of which you have been given notice. No handwritten change or interlineation to this agreement is valid unless approved in writing by a Vice President of ours.

Governing Laws. This Agreement is governed by and subject to applicable federal and state laws and the regulations of the FCC. Any conflict between the terms and conditions of this Agreement and the provisions of any tariff or other laws, rules, or regulations shall be resolved in favor of the applicable tariff, law, rule, or regulation.

Arbitration. Either party may elect to have any claim in excess of \$10,000 resolved by binding arbitration, by and according to the rules of, Judicial Arbitration and Mediation Services, Inc ("JAMS"). All hearings shall be held in a mutually convenient location within the State where the Number is/was activated and the arbitration shall be conducted according to the commercial arbitration rules of the American Arbitration Association. Judgment upon any award may be entered in any court having jurisdiction. Should the foregoing terms not be enforceable for any reason, then the dispute may be resolved in a state or federal court in the State where the Number is/was activated; after commencement of suit we shall jointly request an order of arbitration as provided above.

Government Plan Agreement

Customer Information

Customer Name: City of Oxnard

Account Type	Account Number
All Accounts	

Account Type	Account Number

Terms and Conditions

This agreement shall continue for a fixed term of 24 months. You have been provided with discounted cellular telephone service in exchange for your agreement to remain a subscriber for the next 24 months. **If you terminate your service prior to the end of the fixed term or we terminate service following your default, you agree to pay us in addition to all other amounts owing a prorated fee of \$200.00 per access number.**

By signing below I acknowledge that I have read and I understand all terms of this agreement. All other terms and conditions as described on the original service agreement still apply.

Print Name: Stan Kleinman

Title: Finance Director

Subscriber Signature: [Signature]

Date: 12/20/96

APPROVED AS TO FORM:
By [Signature]

Its City Attorney

Sales Information

Dealer Name: Bart Tilly

Dealer Code: 50454

Rate	Minutes	Term	Fee
\$25.00	0-10,000 @ \$.29	12 months	\$200 per line
	10,001+ @ \$.28		
	*MTM & Off-Peak @ \$.10		

*MTM and Off-Peak minutes within home county only, within the local calling area the blended rate of \$.29 or \$.28 applies; roaming within California is \$.79.

State: California
Market: Ventura
Cell ID: 5518-97007
Name: Central Oxnard

OPTION AND ROOFTOP LEASE AGREEMENT
(Improved Real Property)

THIS OPTION AND ROOFTOP LEASE AGREEMENT (this "Agreement") is entered into this 19 day of NOVEMBER, 1996, between the City of Oxnard ("Landlord") and AT&T Wireless Services of California, Inc., a Delaware corporation ("Tenant").

For the sum of One Thousand Seven Hundred and 00/100 Dollars (\$1,700.00) (the "Option Fee"), to be paid to Landlord by Tenant within twenty (20) working days after Landlord's execution of this Agreement and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

A. OPTION

1. Premises. Subject to the following terms and conditions, Landlord grants to Tenant an option to lease (the "Option") certain space on the roof of the Building (the "Building") located on the real property (the "Property") described in Exhibit A attached hereto and incorporated herein by this reference. The location and orientation of Tenant's space on the exterior of the Building (the "Premises") is as described in Exhibit B attached hereto and incorporated herein by this reference. The address of the Building is 300 West Third Street, Oxnard, California.

2. Option Term. The Option shall be for an initial term of twelve (12) months commencing on the date set forth above (the "Initial Option Period"). The Option term may be extended for an additional twelve (12) months upon notification to Landlord by Tenant and upon payment of additional consideration in the sum of One Thousand Seven Hundred and 00/100 Dollars (\$1,700.00) ("Additional Option Fee") prior to the end of the Initial Option Period.

3. Cooperation. During the Initial Option Period and any extensions thereto and during the term of this Lease, Landlord agrees to cooperate with Tenant in obtaining and maintaining, at Tenant's sole expense, all licenses and permits required for Tenant's use of the Premises (the "Governmental Approvals") and Landlord agrees to allow Tenant to perform surveys, soils testing, and other engineering procedures on,

under, and over the Property necessary to determine that the Premises will be acceptable to Tenant's engineering specifications, system design and Governmental Approvals; provided that subsequent to any such testing or procedures, Tenant shall restore the Premises, at Tenant's sole expense, to its prior condition. Tenant shall make best efforts to obtain all Government Approvals as quickly as possible. Landlord acknowledges that Tenant shall have no obligation to appeal the denial of any Government Approvals or to seek the extension or renewal of any Government Approvals.

4. Exercise of Option. Tenant may exercise this Option by notifying Landlord in writing prior to the expiration of the Initial Option Period or any extension thereto that Tenant is exercising its Option. Landlord acknowledges that Tenant is under no obligation to exercise the Option and that Tenant's decision to do so will be dependent on Tenant's subjective determination of the utility of the Premises for Tenant's intended purpose.

B. LEASE

5. Lease Term. In the event that Tenant exercises the Option, the term of this lease (this "Lease") shall be five (5) years, commencing upon the date Tenant gives written notice to Landlord that Tenant is exercising its Option (the "Commencement Date") which shall in any event be prior to the expiration of the Initial Option Period or any extension thereof, and terminating at midnight on the last day of the month in which the fifth annual anniversary of the Commencement Date shall have occurred. Tenant shall have the right to extend this Lease for seven (7) additional three (3) year terms ("Renewal Terms"). Each Renewal Term shall be on the same terms and conditions as set forth herein. This Lease shall automatically be renewed for each successive Renewal Term unless Tenant shall notify Landlord of Tenant's intention not to renew this Lease at least ten (10) days prior to the expiration of the term or any Renewal Term.

6. Use.

a. The Premises may be used by Tenant only for the transmission and reception of radio communication signals in any and all frequencies, for the construction and maintenance of related facilities, antennas, or buildings and for related activities and uses as described herein. The design, size and location of any such facilities, antennas or buildings are subject to the prior written approval of Landlord, as provided in Paragraph 9a.

b. In using the Premises, Tenant shall comply with all applicable local, state and federal laws and regulations.

7. Rent.

a. Upon the Commencement Date, Tenant shall pay Landlord, as rent, the sum of Eight Hundred Fifty and 00/100 Dollars (\$850.00) per month (the "Rent"). Rent shall be paid to Landlord within ten (10) days of the first day of each month in advance to Landlord at Landlord's address specified in Paragraph 18 below. If the Lease is commenced other than on the first day of a month, the Rent shall be prorated for that first month for the number of days from the Commencement Date to the end of the month.

b. If this Lease is terminated at a time other than on the last day of a month, Rent shall be prorated as of the date of termination, and, in the event of termination for any reason other than nonpayment of Rent, all prepaid Rents shall be refunded to Tenant.

c. The Rent for each Renewal Term shall be equal to one hundred five percent (105%) of the Rent in effect for the immediately preceding term or Renewal Term, as applicable.

d. Tenant acknowledges that late payment of Rent may cause Landlord to incur administrative costs and expenses which are difficult and impractical to fix. Therefore, if any installment of Rent or other payment due from Tenant is not received by Landlord within ten (10) calendar days after due date, Tenant shall pay Landlord an additional sum equal to five percent (5%) of the past due obligation as a late charge which shall be deemed additional Rent. The parties agree that this late charge represents a fair and reasonable estimate of the administrative costs that Landlord may incur by reason of Tenant's late payments.

8. Interference.

a. Landlord shall not use, nor shall Landlord permit its employees, tenants, licensees, invitees or agents to use any portion of the Property or the Building in any way which interferes with the physical or technological operations of Tenant. Such interference shall be deemed a material breach by Landlord, and Landlord shall have the responsibility to terminate said interference. In the event any such interference does not cease promptly, the parties acknowledge that continuing interference will cause irreparable injury to Tenant, and therefore Tenant shall have the right, in addition to any other rights that it may have at law or in equity, to bring action to enjoin such interference or to terminate this Lease.

b. Nothing in this Lease shall be construed to limit Landlord's right to sell the Building (provided any purchaser of the Building acknowledges in writing that the building is subject to this Lease), use the Building other than the Premises or to

assign or lease the Property or the Building or portions thereof; provided, however, that Landlord shall include in any leases of portions of the rooftop of the Building, the Building and/or the Property a requirement that the tenants shall not interfere with the physical or technological operations of Tenant. Shared use by Tenant and other tenants of portions of the Property or the Building, other than the Premises, or use of the Property or the Building, other than the Premises, by a tenant that competes with Tenant shall not be deemed to be "interference."

c. Nothing in this Lease shall be construed to limit or interfere with Landlord's right to repair, maintain and improve the Building and the rooftop thereof, including, but not limited to, such actions as reroofing. Tenant agrees to cooperate with Landlord and its contractors as necessary to accomplish such repairs, maintenance and improvements, including, on reasonable notice from Landlord, temporarily relocating Tenant's Antenna Facilities and utilities, described in Section 9, to another location of the Building rooftop while Landlord or its contractors perform such repairs, maintenance or improvements. To the extent reasonably possible, Landlord shall cooperate with Tenant to minimize any inconvenience or disruption to Tenant in connection with any such repairs, maintenance or improvements. The responsibility for the costs and expenses associated with any temporary relocation of Tenant's Antenna Facilities as provided for in this subparagraph 8.c. shall be allocated as follows: Landlord shall be responsible for the first \$1,000.00 of such costs and expenses; Landlord and Tenant shall each bear responsibility for one-half of such costs and expenses in excess of the \$1,000.00 which is the responsibility of the Landlord.

9. Improvements; Utilities; Access.

a. Tenant shall have the right, at its expense, to install, construct, repair and maintain in the Premises the improvements, personal property and facilities relating thereto (the "Antenna Facilities"). The installation and construction of the Antenna Facilities shall be in accordance with the design set forth in the Governmental Approvals allowing such installation and construction. The design of the Antenna Facilities may not be substantially altered without the prior written approval of the Landlord, which approval shall not be unreasonably withheld. The Antenna Facilities shall remain the exclusive property of Tenant, and Tenant shall have the right to remove all or any portion of the Antenna Facilities or any portion thereof during the Lease term and following any termination of this Lease. Tenant shall repair any and all damages to the Premises or Property caused by any such removal.

b. Tenant shall have the right to install utilities and to improve the present utilities, all at Tenant's expense, on the Premises (including, but not limited to the installation of emergency power generators). Tenant shall have the right to permanently place utilities, at Tenant's expense, on (or to bring utilities across) the Property in order to service the Premises and the Antenna Facilities, together with a

right to enter the Property in order to maintain, repair and replace said utilities. Landlord shall execute a written easement, which shall expire concurrent with the term of this Lease, as may be extended, in recordable form evidencing these rights upon Tenant's request.

c. Landlord shall provide Tenant ingress and egress from an open and improved public road, and access over and across the Property and to and within the Building adequate to service the Antenna Facilities at all times during the term of this Lease or any renewal thereof at no additional charge to Tenant. Tenant shall be entitled to twenty-four (24) hour, seven (7) days per week, access to the Premises, without the necessity of prior written notice to Landlord.

10. Default.

a. Landlord shall be in default under this Agreement if: (i) Landlord shall fail to cease any physical or technological interference within the cure periods set forth in Paragraph 8 above; or (ii) Landlord shall fail to observe or perform any of Landlord's other obligations under this Agreement when such failure shall continue for thirty (30) days after written notice from Tenant to Landlord; provided, however, that if the nature of Landlord's default is such that it cannot be cured solely by payment of money and that more than said 30-day period may be reasonably required to effect such cure, then Landlord shall not be deemed to be in default under this clause (ii) if Landlord shall commence such cure within said 30-day period and shall thereafter diligently prosecute such cure to completion. In the event of any breach of this Agreement by Landlord, Tenant shall have the right (but not the obligation), in addition to all remedies that may be available at law or in equity, to perform Landlord's obligations under this Agreement. Tenant shall have the right to set off any expense incurred as a result of Landlord's default against any Rent or other payment due under this Agreement.

b. Tenant shall be in default under this Agreement if: (i) Tenant shall fail to pay the Rent due under this Agreement within ten (10) days after written notice from Landlord that such Rent is overdue; or (ii) Tenant shall fail to observe or perform any of Tenant's other obligations under this Agreement when such failure shall continue for thirty (30) days after written notice from Landlord to Tenant; provided, however, that if the nature of Tenant's default is such that it cannot be cured solely by payment of money and that more than said 30-day period may be reasonably required to effect such cure, then Tenant shall not be deemed to be in default under this clause (ii) if Tenant shall commence such cure within said 30-day period and shall thereafter diligently prosecute such cure to completion. In the event of any breach of this Agreement by Tenant, Landlord shall have the right (but not the obligation), in addition to all remedies that may be available at law or in equity, to perform Tenant's obligations under this Agreement.

11. Termination. Except as otherwise provided herein, this Lease may be terminated, without any penalty or further liability, on thirty (30) days written notice as follows: (a) by either party upon a default of any covenant or term hereof by the other party, which default is not cured within sixty (60) days of receipt of written notice of default (without, however, limiting any other rights available to the parties pursuant to any other provisions hereof); (b) by Tenant if it is unable to obtain or maintain any license, permit or other Governmental Approval necessary to the construction and/or operation of the Antenna Facilities or Tenant's business; or (c) by Tenant if the Premises or the Building is or becomes unacceptable under Tenant's design or engineering specifications for its Antenna Facilities or the communications system to which the Antenna Facilities belong. In the event Tenant terminates this Lease under provision (c) of this section, Tenant will pay a termination fee to Landlord equal to one year's rent payments.

12. Condition of Premises Upon Termination. Upon termination, Tenant will return the Premises to their original condition, ordinary wear and tear and casualty excepted.

13. Taxes. Tenant shall pay any personal property taxes assessed on, or any portion of such taxes attributable to, the Antenna Facilities. Landlord shall pay when due all real property taxes and all other fees and assessments attributable to the Premises. However, Tenant shall pay, as additional Rent, any increase in real property taxes levied against the Premises which is directly attributable to Tenant's use of the Premises, and Landlord agrees to furnish proof of such increase to Tenant, except for proof of possessory or other leasehold interest taxes, billings for which are submitted directly to Tenant by the taxing agency. Tenant shall pay and be solely responsible for any possessory or other leasehold interest tax that may be assessed by reason of this Agreement and Tenant's use of the Premises.

14. Insurance.

a. Tenant shall obtain and maintain during the performance of any services under this Agreement the following insurance coverage issued by a company satisfactory to the Risk Manager, unless the Risk Manager waives, in writing, the requirement that Consultant obtain and maintain such insurance coverage.

(1) Commercial general liability insurance, including a contractual liability endorsement, in an amount not less than \$1,000,000 combined single limit for bodily injury and property damage for each claimant for general liability with coverage equivalent to Insurance Services Office Commercial General Liability coverage (Occurrence Form CG0001ED, November 1988);

(2) Business automobile liability insurance in an amount not less than \$1,000,000 combined single limit for bodily injury and property damage for each claimant for automobile liability with coverage equivalent to Auto Liability Insurance Services Office coverage (Occurrence Form CA000T, ED June 1992) covering Code No. 1, "any auto;"

(3) Property insurance against all risk of loss to any Tenant improvements or betterments in the amount of the full replacement cost with no co-insurance penalty provision;

(4) Workers' compensation insurance in compliance with the laws of the State of California, including employer's liability insurance in an amount not less than \$1,000,000 per claimant.

b. Tenant shall, prior to performance of any services, file with the Risk Manager a certificate of insurance, on a City-approved form, certifying that the above insurance coverages shall remain in effect at all times during the term of this Agreement, or any extension thereof. The certificate of insurance shall be forwarded to the Risk Manager, addressed as follows:

City of Oxnard
Risk Manager
Contract No. A-5300
300 West Third Street, Suite 302
Oxnard, California 93030

c. Tenant agrees that all insurance coverages shall be provided by a California admitted insurance carrier with an A.M. Best rating of A-7 or better and shall bear endorsements providing that the policies may not be cancelled or modified 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 efforts" modifiers or if the insurer is relieved from the responsibility to give such notice.

d. Tenant agrees that the commercial general liability and business automobile liability insurance policies shall be endorsed to name City, its City Council, officers and employees as additional insureds and to provide that the coverages provided to City shall be primary and not contributing to or in excess of any existing City insurance coverages.

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

15. Destruction of Property. If the Property, Building or the Premises are destroyed or damaged so as, in Tenant's judgment, to hinder the effective use of the Antenna Facilities, Tenant may elect to terminate this Lease as of the date of the damage or destruction by so notifying Landlord not more than forty-five (45) days following the date of damage. In such event, all rights and obligations of the parties shall cease as of the date of the damage or destruction and Tenant shall be entitled to the reimbursement of any Rent prepaid by Tenant.

16. Condemnation. If a condemning authority takes all of the Property and/or the Building, or a portion sufficient, in Tenant's determination, to render the Premises unsuitable for the use which Tenant was then making of the Premises, this Lease shall terminate as of the date the title vests in the condemning authority.

It is the intention of the parties that neither Landlord nor the condemning authority shall have the right to terminate the Lease in the event of the condemnation of the Premises or any portion of the Property, unless Tenant's use of the Premises thereafter materially interferes with the condemning authority's use of the balance of the Property. The parties shall be entitled to share in the condemnation proceeds in proportion to the values of their respective interests in the Property (which for Tenant shall include, where applicable, the value of its Antenna Facilities, moving expenses, prepaid Rent, and business dislocation expenses) as set out by the condemning authority, or as agreed to by the parties. If the respective interests are not set forth by the condemning authority and the parties are unable to agree, their respective share shall be determined by mediation through an independent mediator or if mediation fails to resolve the controversy, then by arbitration under the provisions of the California Arbitration Act. Sale of all or part of the Property to a purchaser with the power of eminent domain in the face of the exercise of the power, shall be treated as a taking by condemnation.

17. Indemnity.

a. Tenant agrees to indemnify, hold harmless and defend Landlord, its City Council, and each member thereof, and every officer, employee, representative or agent of Landlord, from any and all liability, claims, demands, actions, damages (whether in contract or tort, including personal injury, death at any time, or property damage), costs and financial loss, including all costs and expenses and fees of litigation or arbitration, that arise directly or indirectly from any acts or omissions related to this Agreement performed by Tenant or its agents, employees, subconsultants, consultants and other persons acting on Tenant's behalf. This agreement to indemnify, hold harmless and defend shall apply whether such acts or omissions are the product of active negligence, passive negligence, willfulness or acts for which Tenant or its agents, employees, subconsultants, consultants and other persons acting on Tenant's behalf would be held strictly liable.

b. Tenant agrees to indemnify, hold harmless and defend City, its City Council, and each member thereof, and every officer, employee, representative or agent of City, from any and all liability, claims, demands, actions, damages (whether in contract or tort, including personal injury, death at any time, or property damage), costs and financial loss, including all costs and expenses and fees of litigation or arbitration, that arise directly or indirectly from any acts or omissions related to this Agreement performed by City, its City Council, and each member thereof, or any officer, employee, representative or agent of City, except if such acts or omissions are the product of active negligence or of passive negligence.

c. Tenant's obligation to defend shall arise when a claim, demand or action is made or filed, whether or not such claim, demand or action results in a determination of liability of damages as to which Tenant is obligated to indemnify and hold harmless.

18. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, or sent by overnight carrier to the following addresses:

If to Landlord, to:

City of Oxnard, Facilities Services Program
1060 Pacific Avenue, Building #3
Oxnard, CA 93030

With a Copy to:

City of Oxnard, City Attorney Program
300 West Third Street
Oxnard, CA 93030

Rent Payments to:

City of Oxnard, Finance and Management Services
300 West Third Street
Oxnard, CA 93030

If to Tenant, to:

AT&T Wireless Services
6485 Calle Real, Suite E
Goleta, CA 93117
ATTN: Site Development Manager

With a copy to:

AT&T Wireless Services
Legal Department
1750 Howe Avenue, Suite 300
Sacramento, CA 95825
Attention: General Counsel

Either party may by written notice to the other party specify a different address for notice purposes.

19. Title and Quiet Enjoyment.

a. Landlord warrants that it (i) has full right, power and authority to execute this Agreement; (ii) has good and unencumbered title to the Building free and clear of any ground leases, liens, mortgages or other encumbrances that would interfere with Tenant's intended use of the Premises, except as set forth in Exhibit "C" attached hereto; (iii) is the lessee of the Property from the owner of the Property, and (iv) has the power to grant the access rights as set forth in Paragraph 9(c) above. Landlord further warrants that Tenant shall have the quiet enjoyment of the Premises during the term of this Lease.

b. Tenant has the right to obtain a title report or commitment for a leasehold title policy from a title insurance company of its choice. If, in the opinion of Tenant, such title report shows any defects of title or any liens or encumbrances which may adversely affect Tenant's use of the Property and the Building or Tenant's ability to obtain leasehold financing, Tenant shall have the right to terminate this Lease immediately upon written notice to Landlord.

c. Tenant shall also have the right to have the Property surveyed, and, in the event that any defects are shown by the survey which, in the opinion of Tenant, may adversely affect Tenant's use of the Premises or Tenant's ability to obtain leasehold financing, Tenant shall have the right to terminate this Lease immediately upon written notice to Landlord.

20. Emergency Measures. Landlord acknowledges that Tenant, as a telecommunications carrier, has an obligation to provide its services at all times, even in times of power failures, natural disaster, civil commotion and other emergencies. Accordingly, Landlord agrees that Tenant shall have the right to bring all equipment and personnel onto the Premises and the Property, to the extent necessary, as may be reasonably necessary to allow Tenant to continue its operations in the face of such emergencies.

21. Assignment. Tenant may not assign the Lease and its other rights under this Agreement (including, without limitation, any options to extend the term of the Lease), or sublet the Premises or any portion thereof, without the prior written consent of Landlord, which consent shall not be unreasonably withheld. Notwithstanding the preceding sentence, upon notice to Landlord, Tenant may assign this Agreement to an affiliate, subsidiary or parent of Tenant. Any sublease that is entered into by Tenant shall be subject to the provisions of the Lease.

22. Successors and Assigns. This Agreement shall run with the Property, and shall be binding upon and inure to the benefit of the parties, their respective successors, personal representatives and assigns.

23. Waiver of Landlord's Lien. Landlord hereby waives any and all lien rights it may have, statutory or otherwise, concerning the Antenna Facilities and other equipment or trade fixtures brought onto the Premises by Tenant, all which shall be deemed personal property for the purposes of this Agreement, regardless of whether or not same is deemed real or personal property under applicable laws, and Tenant shall have the right to remove all or any portion of same from time to time in Tenant's sole discretion and without Landlord's consent.

24. Leasehold Financing. Tenant may, upon notice to Landlord, mortgage or grant a security interest in this Agreement, the Lease, and the Antenna Facilities, and may assign the Lease and the Antenna Facilities to any such mortgagees or holders of security interests including their successor or assigns (collectively, "Mortgagees"). In such event, Landlord shall execute such consent to leasehold financing as may reasonably be required by Mortgagees. Landlord agrees to notify Tenant's Mortgagees simultaneously of any default by Tenant and to give Mortgagees the same right to cure any default as Tenant, except that the cure period for any mortgagee shall not be less than ten (10) days after receipt of the default notice. Neither Tenant's assignment of the Lease nor the subletting of the Premises shall relieve Tenant of its obligation under the Lease, unless Landlord releases Tenant in writing.

25. Environmental Matters.

a. Tenant represents and warrants to Landlord that Tenant will not generate, store or dispose of any hazardous materials on, under or about the Property in violation of any hazardous substance laws (as defined below). Tenant shall indemnify and hold Landlord harmless from any losses, claims, damages, penalties and liabilities arising from any breach of the foregoing representations and warranties.

b. Landlord represents and warrants to Tenant that the statements made by Landlord in the Environmental Questionnaire attached hereto as Exhibit "D", which is incorporated herein by this reference, are true and correct.

c. Landlord shall indemnify and hold harmless Tenant, its partners, directors, officers, employees, and agents, and any assignees, subtenants, or successors to Tenant's interest in the Premises, their partners, directors, officers, employees, and agents, from and against any and all losses, claims, damages, penalties, and liability, including all out-of-pocket litigation costs and the reasonable fees and expenses of counsel and experts, including without limitation all consequential damages directly or indirectly arising out of the use, generation, storage, release, or disposal of hazardous materials by Landlord, its agents, or contractors prior to execution of this Agreement or at any time after execution, or by any prior owner or operator of the Property, and also from and against the cost of any required repair, cleanup, or detoxification and any closure or other required plans to the full extent that such action is attributable, directly or indirectly, to the presence or use, generation, storage, release, threatened release, or disposal of hazardous materials by any person on, under, or in the Property.

d. If any cleanup, repair, detoxification, or other similar action is required by any governmental or quasi-governmental agency as a result of the storage, release, or disposal of hazardous materials by Landlord, its agents or contractors, at any time, or by any prior owner, possessor, or operator of any part of the Property, and such action interferes with Tenant's normal use of the Premises for greater than a twenty-four (24) hour period, then the Rent will be abated entirely during the period beyond twenty-four (24) hours; in addition, Tenant shall have the rights set forth in Paragraph 8 of this Agreement.

e. In this Paragraph, "hazardous materials" includes, but is not limited to, substances defined as "hazardous substances," "hazardous materials," or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq.; and those substances defined as hazardous, toxic, hazardous wastes, toxic wastes, or as hazardous or toxic

substances by any law or statute now or after this date in effect in the state in which the Premises are located; and in the regulations adopted and publications promulgated pursuant to those laws (all collectively "hazardous substance laws").

f. The provisions of this Paragraph will survive the expiration or termination of this Agreement and the Lease.

26. Relocation of Premises. Landlord shall be entitled to have the Premises relocated to a different location on the rooftop of the Building pursuant to the following conditions: i) the alternate location must satisfy Tenant's cell site requirements, and ii) the costs of any such relocation of the Premises and the relocation of Tenant's facilities associated therewith shall be solely the responsibility of the Landlord. Within one year after agreeing to the relocation of the Premises and its facilities located thereon, Tenant shall complete such relocation, at the expense of the Landlord (Tenant shall be free to continue to use the original Premises during such period). In the event an alternate site cannot be agreed upon by the parties or if Landlord declines to pay for the cost of any such relocation, then Landlord's ability to obtain a relocation of the Premises under this paragraph shall terminate and be of no effect.

27. Miscellaneous.

a. The substantially prevailing party in any litigation or other proceeding arising under this Agreement shall be entitled to its court costs and reasonable attorneys' fees (which, for Landlord, shall include the reasonable value of services rendered by the City Attorney's Program), including appeals, if any.

b. Each party agrees to furnish to the other such truthful estoppel information as the other may in writing reasonably request, upon not more than thirty (30) days' prior notice.

c. This Agreement and all addenda and exhibits attached hereto constitute the entire agreement and understanding of the parties, and supersedes all offers, negotiations and other agreements. There are no representations or understandings of any kind not set forth herein. Any amendments to this Agreement must be in writing and executed by both parties. All addenda and exhibits attached to this Agreement are incorporated herein by this reference.

d. If either party is represented by a real estate broker in this transaction, that party shall be fully responsible for any fee due such broker, and shall hold the other party harmless from any claims for commission by such broker.

e. Landlord agrees to cooperate with Tenant in executing (or obtaining the execution by third parties, as the case may be) any documents necessary to protect

Tenant's rights under this Agreement or Tenant's use of the Premises. Such documents may include, without limitation, a short-form memorandum of this Agreement (which may reference the various option rights of Tenant under this Agreement), a short form memorandum of the Lease, the easement agreements pursuant to Paragraph 9 of this Agreement, a waiver of Landlord's interest in the Antenna Facilities pursuant to Paragraph 25 above, and a non-disturbance agreement from any existing or future mortgagee or ground lessor assuring that Tenant may remain in possession of the Premises without reduction in its rights under this Agreement should Landlord default under said mortgage or ground lease. All of the foregoing documents must be commercially reasonable in content and in a form suitable for recordation, and shall be executed by Landlord not later than thirty (30) days after Tenant's request therefor.

Upon the expiration or earlier termination of this Agreement, Tenant will, if requested by Landlord, record a quitclaim deed to evidence the termination of Tenant's interest in the Property.

f. This Agreement shall be construed in accordance with the laws of the state in which the Property is located. The provisions of this Agreement shall be construed in accordance with the fair meaning of the language used and shall not be strictly construed against either party. If the parties delete any provisions appearing in the original draft of this Agreement, this Agreement shall be interpreted as if the deleted language were never a part of this Agreement.

g. Landlord has informed Tenant that although Landlord owns the Building, it is the lessee of the Property. The Property is subject to that certain Ground Lease ("Ground Lease") dated December 28, 1964, between Thomas E. Laubacher, Richard V. Laubacher, Marion L. Sweetland and Claire L. Berg, as Lessor ("Master Landlord") and 301 "B" Street, Inc. (Landlord's predecessor in interest with respect to the Ground Lease) as "Lessee," inasmuch as Landlord is the subassignee of Lessee. In compliance with section 9 of said Ground Lease, the following provisions are included in this Lease:

(1) This Lease is subject to all of the terms and provisions of the Ground Lease.

(2) In the event Tenant defaults in any of the provisions of this Lease on the part of Tenant to be performed, after notice of such default and the failure to cure same by Tenant, Landlord may, after the expiration of the notice period, re-enter the Premises by summary proceedings or otherwise have the right to expel Tenant and (i) terminate the lease, or (ii) relet the Premises for the account of Tenant without terminating this Lease. The notice period for any default shall not exceed thirty (30) days for non-payment of Rent and shall not exceed sixty (60) days for the failure to perform any other provisions under this Lease on the part of Tenant to be performed,

unless the performance of such other provisions cannot be reasonably accomplished within said sixty (60) day period, in which case Tenant may be permitted to additional time reasonably necessary to complete performance.

Landlord represents this Lease does not violate any provision of the Ground Lease, and that no provisions of this Lease are in conflict with any provisions of the Ground Lease. Landlord represents that it will comply with all terms of the Ground Lease and will not allow said Ground Lease to be terminated during the term of this Lease. Landlord further agrees to cooperate with and assist Tenant in obtaining a non-disturbance agreement from the Master Landlord, or its successor in interest, as the case may be, satisfactory to Tenant as provided for in Paragraph 27.e., above. The receipt of Tenant of the non-disturbance agreement shall be a condition to the effectiveness of this Lease.

h. If any term of this Agreement is found to be void or invalid, such invalidity shall not affect the remaining terms of this Agreement, which shall continue in full force and effect.

DATED as of the date first set forth above.

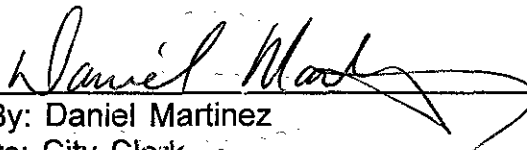
LANDLORD:

City of Oxnard



By: Dr. Manuel M. Lopez
Its: Mayor
Tax ID: 95-6000756

Attest:



By: Daniel Martinez
Its: City Clerk

Approved as to Form:



By: Gary L. Gillig, Esq.
Its: City Attorney

Signatures Continue. . .

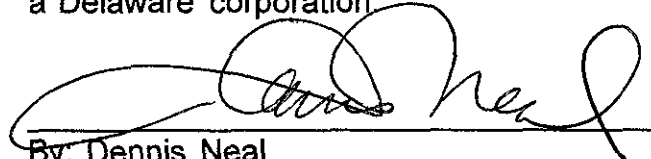
Signatures Continued. . .

Approved as to Content:

Armando J. Capulony
Finance and Management Services

TENANT:

AT&T Wireless Services of California, Inc.,
a Delaware corporation:


By: Dennis Neal
Its: Site Development Manager

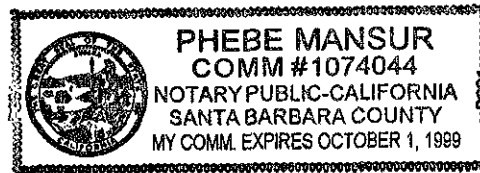
CERTIFICATE OF ACKNOWLEDGMENT

STATE OF California
COUNTY OF Santa Barbara

On Nov. 18, 1996 before me, Phebe Mansur, Notary Public, personally appeared Dennis E. Neal, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Phebe Mansur



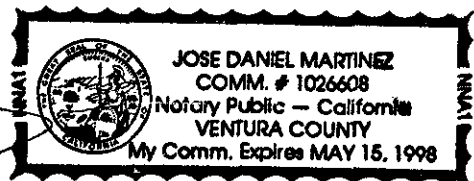
CERTIFICATE OF ACKNOWLEDGMENT

STATE OF California
COUNTY OF Ventura

On November 20, 1996 before me, Jose Daniel Martinez, Notary Public, personally appeared Dr. Manuel M. Lopez, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Jose Daniel Martinez



CERTIFICATE OF ACKNOWLEDGMENT

STATE OF _____
COUNTY OF _____

On _____ before me, _____, Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF _____
COUNTY OF _____

On _____ before me, _____, Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF _____
COUNTY OF _____

On _____ before me, _____, Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF _____
COUNTY OF _____

On _____ before me, _____, Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____

RG11898.3

EXHIBIT A

to the Option and Rooftop Lease Agreement (improved Real Property) dated NOVEMBER 19, 1996 by and between the City of Oxnard as Landlord, and AT&T Wireless Services of California, Inc., a Delaware corporation, as Tenant.

The Property is legally described as follows:

Lots 1, 2, 3, and 4, Block C, Town of Oxnard, in the City of Oxnard, County of Ventura, State of California, as per Map recorded in Book 5 Page 9 of Maps in the office of the County Recorder of said County.

Exhibit A
Page 1 of 1

EXHIBIT B

to the Option and Rooftop Lease Agreement (improved Real Property) dated November 19, 1996 by and between the City of Oxnard as Landlord, and AT&T Wireless Services of California, Inc., a Delaware corporation, as Tenant.

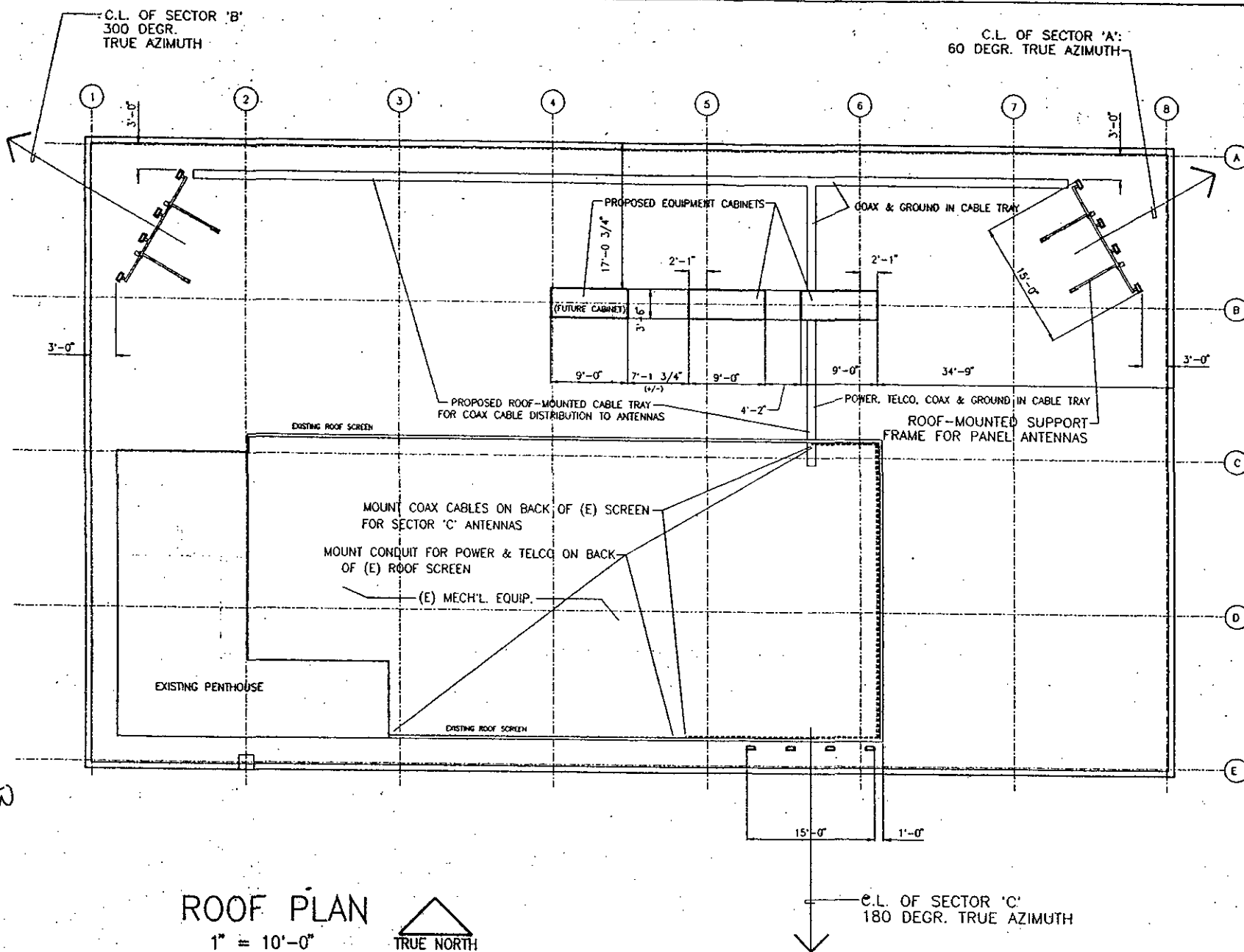
The location of the Premises within the property is more particularly described or depicted as follows:

[See attached page]

Exhibit B
Page 1 of 2

SITE N
AT&T W
PROJ
300 W
OXNAR
LEASE
(APPLI
AT&T W
6485 C
Goleta
805/66
Planni
Emi
Electro
Bob
Site D
Den
LEGAL
BLOCK

1



ROOF PLAN

1" = 10'-0"



Exhibit B
Page 2 of 2

EXHIBIT C

to the Option and Rooftop Lease Agreement (improved Real Property) dated November 19, 1996 by and between the City of Oxnard as Landlord, and AT&T Wireless Services of California, Inc., a Delaware corporation, as Tenant.

The following is a list of ground leases, liens, mortgages and other encumbrances currently on the Property:

Y 1. A LEASE WITH CERTAIN TERMS, COVENANTS, CONDITIONS AND PROVISIONS SET FORTH THEREIN.

LESSOR: Thomas E. Laubacher, a married man; Richard V. Laubacher, a married man and Marion L. Sweetland, a married woman, all dealing with their separate property and Claire L. Berg, a widow in equal shares

LESSEE: 301 "B" Street, Inc.

RECORDED: March 1, 1965 in Book 2739, Page 197, Official Records

The interest of Claire L. Berg has passed to Ralph Berg.

The interest of Marion L. Sweetland has passed to Ventura County Seed Growers, Inc.

The interest of Thomas E. Laubacher has passed to Thomas E. Laubacher and Helen E. Laubacher, Trustees of the Thomas and Helen Laubacher 1989 Family Trust created under Declaration of Trust dated August 22, 1989;

The interest of Richard V. Laubacher has passed to Richard V. Laubacher; as Trustee of The Laubacher Family Trust dated 12-22-89.

Assignment of the lessee's interest under said lease.

Assignor: 301 "B" Street, Inc.

Assignee: 300 West Third Street

Recorded: January 5, 1966 in Book 2922, Page 522, Official Records

Assignment of the lessee's interest under said lease.

Assignor: 300 West Third Street

Assignee: City of Oxnard

Recorded: February 18, 1976 in Book 4540, Page 950, Official Records

EXHIBIT D

ENVIRONMENTAL QUESTIONNAIRE AND DISCLOSURE STATEMENT

(to be completed by Landlord/Seller)

Landlord/Seller City of Oxnard

Tenant/Buyer _____

Property 300 W. 3rd St.

Location Oxnard, Ca.

Cell Site I.D. _____

A. Current/Former Uses of the Property

1. Name of current and all former owner(s):

City of Oxnard

2. Description of current use(s) of the Property, including name(s) of current occupant(s) and date(s) of occupancy:

City of Oxnard staff

3. Name(s) of previous occupant(s):

N/A

4. Description of previous use(s) of the Property:

N/A

5. Description of uses of adjacent properties:

COMMERCIAL OFFICE BUILDINGS

Exhibit D
Page 1 of 16

B. Information Regarding Asbestos

1. Is there currently asbestos in any of the construction materials contained in the building?

YES

2. If so, has a survey been conducted to assess the type, amount, location and conditions of asbestos? (If so, please attach a copy of any survey report.)

YES (SEE ATTACHED)

3. Have asbestos air samples been taken? If so, what are the results?

YES (SEE ATTACHED)

C. Polychlorinated Biphenyls ("PCBs")

1. Have polychlorinated biphenyls ("PCBs") been used in electrical transformers, capacitors or other equipment at the Property?

NO

2. If so, please describe the use and quantity of PCBs used on the Property.

N/A

D. Fuel/Chemical Storage Tanks, Drums and Pipelines

1. Are there any above-ground or underground gasoline, diesel, fuel oil or other chemical storage tanks on the property?
NO
2. If so, please describe substances stored and capacity of tank(s).
N/A
3. Have the tanks been inspected or tested for leakage? When was the most recent test? What were the results?
N/A
4. Are any other chemicals stored on the Property in drums or other containers? If so, please describe the substances, quantities stored, and types of containers.
ND
5. Have there been any spills, leaks, or other releases of chemicals on the Property? If so, please describe the chemicals and quantities released, any cleanup measures taken, and the results of any soil or ground water samples performed to detect the presence of the chemicals spilled, leaked, or released on the Property.
N/A
6. Please attach copies of any permits or licenses pertaining to the use, storage, handling, or disposal of chemicals on the Property.

7. Have the tanks been registered with or inspected by any governmental agency?

N/A

F. Air Emissions

1. Describe air emissions from each source of air pollutants, including fuel burning equipment (describe type of fuel burned), on the Property.

Roof Top Water Boiler

2. Describe air pollution control equipment used to reduce emissions for each source of air emissions.

N/A does NOT REQUIRE EMISSION Controls
UNDER V.C.A.Q.M.D. B.T.U. REQUIREMENTS

3. Are air emissions monitored? If so, indicate frequency of monitoring.

NOTE SEE #2 ABOVE

4. Please attach copies of any air permits or licenses pertaining to operations on the Property.

F. Water Discharges

1. List all sources of waste water discharges to surface waters, septic systems, or holding ponds:

N/A

FIRST INTERSTATE BANK BUILDING

Friable Materials

Pipe Insulation

The pipe, fitting and valve insulation found on the roof HVAC equipment, the penthouse Boiler Room, and fittings located within the ceiling or attic cavities throughout this building are asbestos-containing.

The pipe insulation in the Boiler Room is in need of minor repair.

INSULATION HAS BEEN ABATED 6/24/92

The fitting insulation on the exposed pipe on the roof has completely deteriorated. The remaining ACM should be removed and new insulation installed.

INSULATION HAS BEEN ABATED 12/15/91

Tank Insulation

The Boiler Room contains a hot water holding tank that has an asbestos-containing insulation. This material can remain in place until budgeted for removal or until the tank or its associated piping require repair.

Non-Friable Materials

Roofing

In roofing materials, any asbestos is heavily bonded in the petroleum-based mixture. They would become friable only if roughly torn or cut. They do not pose a hazard under ordinary circumstances.

3/06/90

SUMMARY OF ASBESTOS LOCATIONS

District: CITY OF OXNARD

Site: FIRST INTERST BANK

Location	Equipment	Material	HazRank	Friable	Condition
Building : FIB MAIN					
1ST FL CRAWLSPACE	FITTINGS/ELS	INSULATION	1	Y	Good
2ND FL CRAWLSPACE	FITTINGS/ELS	INSULATION	1	Y	Good
3RD FL CRAWLSPACE	FITTINGS/ELS	INSULATION	1	Y	Good
BOILER ROOM	FITTINGS/ELS	INSULATION	5	Y	Fair - <i>Removed</i>
BOILER ROOM	FITTINGS/ELS	INSULATION	5	Y	Fair - "
BOILER ROOM	TANK	INSULATION	1	Y	Good
RESTROOM/4TH FL	FITTINGS/ELS	INSULATION	1	Y	Good
ROOF	FLOOR	MASTIC	1	N	Good
ROOF	ROOF	SHEETING	1	N	Good
ROOF/HVAC EQUIPMENT	FITTINGS/ELS	INSULATION	7	Y	Poor - <i>Removed</i>
STAIRWELL/4TH FL	FITTINGS/ELS	INSULATION	1	Y	Good
SUPPLY RM/4TH FL	FITTINGS/ELS	INSULATION	1	Y	Good

Exhibit D
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TO: City Employees

First Interstate Bldg.
300 W. Third St.

FROM:

TOPIC: Asbestos on Site

A recent survey of city buildings by Associated Safety Consultants has identified the presence of asbestos-containing construction materials (ACM). The survey included bulk samples collected and analyzed in accordance with Environmental Protection Agency (EPA) approved methods. The ACM found only presents a potential hazard to building occupants if it is disturbed.

Air samples were also taken as part of this survey.

The types and locations of the asbestos materials are listed on the attached "Summary of Locations with Asbestos".

To protect the safety and health of our employees, it is our policy that no employees are to disturb ("disturb" includes hanging, climbing, stacking, moving, cutting, sawing, boring, chipping, scraping, etc) any ACM at any time. If for any reason special procedures are required to protect individuals such as maintenance personnel that are likely to come into contact with ACM, the special instructions will be provided.

If at any time you see any ACM that is damaged or could be hazardous, do not disturb it. Immediately report it to the your supervisor, so arrangements can be made to properly repair or dispose of the problem.

Although we have ACM in our store and inhalation of asbestos fibers has been shown to cause cancer and other lung diseases, the results of the survey indicate that there is no ACM which requires any special action. We will continue to monitor our facility to ensure the safety and health of our associates.

The survey report, including air and bulk sampling results and procedures, is available during regular office hours in the Office of the Building.

Further information on asbestos is available from the City of Oxnard, Facilities Maintenance Division at 984-4699.

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ALL ASBESTOS MATERIALS

Client: CITY OF OXNARD

Site: FIRST INTERST BANK

Location	S	Amount	Sample #	Friable	Current	Damage	Hazard
Material	Y		%Asbestos		Condition	Potential	Rank
	S						(7= Highest)

** Building Name: F18 MAIN **

1ST FL CRAWLSPACE	T	5			Overall	1	Contact	1	
INSULATION				Y	% Damage	0	Vibration	1	1
FITTINGS/ELS					Type		Airflow	1	
					Extent				

Comments:

2ND FL CRAWLSPACE	T	5			Overall	1	Contact	1	
INSULATION				Y	% Damage	0	Vibration	1	1
FITTINGS/ELS					Type		Airflow	1	
					Extent				

Comments:

3RD FL CRAWLSPACE	T	5			Overall	1	Contact	1	
INSULATION				Y	% Damage	0	Vibration	1	1
FITTINGS/ELS					Type		Airflow	1	
					Extent				

Comments:

BOILER ROOM	T	14			Overall	1	Contact	1	
INSULATION			2024	Y	% Damage	0	Vibration	1	1
TANK			40		Type		Airflow	1	
					Extent				

Comments: BF TANK

BOILER ROOM	T	2			Overall	2	Contact	2	
INSULATION			2023	Y	% Damage	10	Vibration	1	5
FITTINGS/ELS			30		Type		Airflow	1	
					Extent	D			

Comments:

ALL ASBESTOS MATERIALS

Client: CITY OF OXNARD

Site: FIRST INTERST BANK

Location	S	Amount	Sample #	Friable	Current	Damage	Hazard
Material	Y		%Asbestos		Condition	Potential	Rank
	S						(7= Highest)

** Building Name: FIB MAIN **

BOILER ROOM	T	26			Overall 2	Contact 2	
INSULATION			2022	Y	% Damage 10	Vibration 1	5
FITTINGS/ELS			40		Type	Airflow 1	
					Extent D		

Comments: SOFT RUNS

RESTROOM/4TH FL	T	2			Overall 1	Contact 1	
INSULATION				Y	% Damage 0	Vibration 1	1
FITTINGS/ELS					Type	Airflow 1	
					Extent		

Comments:

ROOF	M	400			Overall 1	Contact 1	
MASTIC			2028	N	% Damage 0	Vibration 1	1
FLOOR			2		Type	Airflow 1	
					Extent		

Comments:

ROOF	M	8750			Overall 1	Contact 1	
SHEETING			2031	N	% Damage 0	Vibration 1	1
ROOF			50		Type	Airflow 1	
					Extent		

Comments:

ROOF/HVAC EQUIPMENT	T	28			Overall 3	Contact 2	
INSULATION			2026	Y	% Damage 50	Vibration 2	7
FITTINGS/ELS			20		Type	Airflow 2	
					Extent D		

Comments: BADLY WEATHERED

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ALL ASBESTOS MATERIALS

Client: CITY OF OXNARD

Site: FIRST INTERST BANK

Location	S	Amount	Sample #	Friable	Current	Damage	Hazard
Material	Y		%Asbestos		Condition	Potential	Rank
	S						(7= Highest)

** Building Name: FIB MAIN **

STAIRWELL/4TH FL	T	1			Overall 1	Contact 1	
INSULATION				Y	% Damage 0	Vibration 1	1
FITTINGS/ELS					Type	Airflow 1	
					Extent		

Comments:

SUPPLY RM/4TH FL	T	2			Overall 1	Contact 1	
INSULATION				Y	% Damage 0	Vibration 1	1
FITTINGS/ELS					Type	Airflow 1	
					Extent		

Comments:

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BULK SAMPLE ANALYSIS REPORT
(Polarized Light/Dispersion Stain, NIOSH 7403)
POSITIVE RESULTS ONLY

CLIENT: CITY OF OXNARD

SITE: FIRST INTERST BANK

Sample#	Date Taken	Sample Location	Asbestos Content		Fibrous	Nonfibrous
Lab ID #	Date Analyzed	Source	Chrysotile	Amosite	Background	Background
				Color	Other Description	
2022	10/09/89	BOILER ROOM	Chry 40		GLASS, 45%	BINDER
		PIPE	Amos 0			QUARTZ
89-5423	11/01/89	INSULATION	Other 0			
			Total 40	Color: WHITE		
2023	10/09/89	BOILER ROOM	Chry 30		GLASS, 45%	BINDER
		FITTINGS/ELS	Amos 0		CELL., 3%	QUARTZ
89-5424	11/01/89	INSULATION	Other 0			
			Total 30	Color: WHITE		
2024	10/09/89	BOILER ROOM	Chry 0			BINDER
		TANK	Amos 40			QUARTZ
89-5425	11/01/89	INSULATION	Other 0			
			Total 40	Color: WHITE		
2026	10/09/89	ROOF/HVAC	Chry 20		GLASS, 45%	BINDER
		EQUIPMENT				
		FITTINGS/ELS	Amos 0		CELL., 3%	QUARTZ
89-5427	11/01/89	INSULATION	Other 0			LIZARDITE
			Total 20	Color: WHITE		
2027	10/09/89	ROOF	Chry 20		GLASS, 45%	BINDER
		FITTINGS/ELS	Amos 0		CELL., 3%	QUARTZ
89-5428	11/01/89	INSULATION	Other 0			LIZARDITE
			Total 20	Color: WHITE		
2028	10/09/89	ROOF	Chry 2			PAINT
		FLOOR	Amos 0			QUARTZ
89-5429	11/01/89	MASTIC	Other 0			
			Total 2	Color: WHITE		
2031	10/09/89	ROOF	Chry 50		CELL., 5%	BINDER
		ROOF SHEET	Amos 0			QUARTZ
89-5432	11/01/89		Other 0			LIZARDITE
			Total 50	Color: WHITE		

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BULK SAMPLE ANALYSIS REPORT
(Polarized Light/Dispersion Stain, NIOSH 7403)
NEGATIVE RESULTS (NON-ASBESTOS)

CLIENT: CITY OF OXNARD

SITE: FIRST INTERST BANK

Sample#	Date Taken	Sample Location	Asbestos Content		Fibrous	Nonfibrous
Lab ID #	Date Analyzed	Material Sampled	Chrysotile	Amosite	Color	Other Description
2025	10/09/89	ROOF/AHU	Chry	0		BINDER
		DUCT	Amos	0		
89-5426	11/01/89	VIB DAMPER	Other	0		SYNTHETIC, 35%
			Total	0	Color:	
2029	10/09/89	ROOF	Chry	0		CELL., 20% BINDER
		PIPE	Amos	0		GLASS, 30% QUARTZ
89-5430	11/01/89	INSULATION/FELT	Other	0		
			Total	0	Color:	
2030	10/09/89	ROOF	Chry	0		CELL., 35% PAINT
		DUCT SEAM	Amos	0		QUARTZ
89-5431	11/01/89	TAPE	Other	0		
			Total	0	Color:	
2032	10/09/89	4TH FLOOR	Chry	0		CELL., 3% PAINT
		FLOOR	Amos	0		QUARTZ
89-5433	11/01/89	TILE/9/YELLOW	Other	0		CALCITE
			Total	0	Color:	
2033	10/09/89	4TH FLOOR	Chry	0		CELL., 3% PAINT
		FLOOR	Amos	0		QUARTZ
89-5434	11/01/89	TILE/9/YELLOW	Other	0		CALCITE
			Total	0	Color:	
2034	10/09/89	4TH FLOOR	Chry	0		CELL., 2% BINDER
		CEILING	Amos	0		GLASS, 50% QUARTZ
89-5435	11/01/89	TILE/1X4 SPL	Other	0		
			Total	0	Color:	
2035	10/09/89	4TH FLOOR	Chry	0		CELL., 2% BINDER
		CEILING	Amos	0		GLASS, 50% QUARTZ
89-5436	11/01/89	TILE/1X4 SPL	Other	0		
			Total	0	Color:	

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BULK SAMPLE ANALYSIS REPORT
(Polarized Light/Dispersion Stain, NIOSH 7403)
NEGATIVE RESULTS (NON-ASBESTOS)

CLIENT: CITY OF OXNARD

SITE: FIRST INTERST BANK

Sample#	Date Taken	Sample Location	Asbestos Content		Fibrous	Nonfibrous
Lab ID #	Date Analyzed	Material Sampled	Chrysotile	Amosite	Background	Background
			Color		Other Description	
2036	10/09/89	4TH FLOOR/OFFICES	Chry	0	CELL., 2%	BINDER
		CEILING	Amos	0	GLASS, 50%	QUARTZ
89-5437	11/01/89	TILE/1X4 SPL	Other	0		
			Total	0	Color:	
2037	10/09/89	4TH FLOOR/HALL- ADMIN	Chry	0	CELL., 30%	BINDER
		CEILING	Amos	0	GLASS, 20%	QUARTZ
89-5438	11/01/89	TILE/2X4(A7)	Other	0		
			Total	0	Color:	
2038	10/09/89	3RD FLOOR/COPY ROOM	Chry	0	CELL., 3%	BINDER
		CEILING	Amos	0	GLASS, 50%	QUARTZ
89-5439	11/01/89	TILE	Other	0		
			Total	0	Color:	
2039	10/09/89	3RD FLOOR/OFFICES	Chry	0	CELL., 3%	BINDER
		CEILING	Amos	0	GLASS, 50%	QUARTZ
89-5440	11/01/89	TILE	Other	0		
			Total	0	Color:	
2041	10/09/89	3RD FLOOR/STORE RM	Chry	0	CELL., 2%	BINDER
		CEILING	Amos	0	GLASS, 50%	QUARTZ
89-5441	11/01/89	TILE/1X4 SPL	Other	0		
			Total	0	Color:	
2042	10/09/89	3RD FLOOR/STORE RM	Chry	0	CELL., 2%	BINDER
		CEILING	Amos	0	GLASS, 50%	QUARTZ
89-5442	11/01/89	TILE/1X4 SPL	Other	0		
			Total	0	Color:	

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BULK SAMPLE ANALYSIS REPORT
(Polarized Light/Dispersion Stain, NIOSH 7403)
NEGATIVE RESULTS (NON-ASBESTOS)

CLIENT: CITY OF OXNARD

SITE: FIRST INTERST BANK

Sample#	Date Taken	Sample Location	Asbestos Content		Fibrous	Nonfibrous
Lab ID #	Date Analyzed	Material Sampled	Chrysotile	Amosite	Background	Background
			Amosite	Color	Other Description	
2140	10/09/89	1ST FLOOR/LOBBY	Chry 0		CELL., 3%	BINDER
		CEILING	Amos 0		GLASS, 50%	QUARTZ
89-5443	11/01/89	TILE/TEX 12	Other 0			
			Total 0	Color:		
2141	10/09/89	1ST FLOOR/LOBBY	Chry 0		CELL., 3%	BINDER
		CEILING	Amos 0		GLASS, 50%	QUARTZ
89-5444	11/01/89	TILE/TEX 12	Other 0			
			Total 0	Color:		
2350	10/09/89	2ND FLOOR/AIR	Chry 0		CELL., 3%	BINDER
		DUCT SHAFT				
		WALL	Amos 0			QUARTZ
89-5445	11/01/89	PLASTER	Other 0			MICA
			Total 0	Color:		
2351	10/09/89	2ND FLOOR/AIR	Chry 0		CELL., 3%	BINDER
		DUCT SHAFT				
		WALL	Amos 0			QUARTZ
89-5446	11/01/89	PLASTER	Other 0			MICA
			Total 0	Color:		
2352	10/09/89	2ND FLOOR/AIR	Chry 0		CELL., 45%	BINDER
		DUCT SHAFT				
		DUCT SEAM	Amos 0			QUARTZ
89-5447	11/01/89	TAPE	Other 0			
			Total 0	Color:		
2353	10/09/89	2ND FLOOR/HALLWAY	Chry 0		CELL., 2%	BINDER
		WALL	Amos 0			QUARTZ
89-5448	11/02/89	PLASTER	Other 0			KAOLIN
			Total 0	Color:		

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BULK SAMPLE ANALYSIS REPORT
(Polarized Light/Dispersion Stain, NIOSH 7403)
NEGATIVE RESULTS (NON-ASBESTOS)

CLIENT: CITY OF OXNARD

SITE: FIRST INTERST BANK

Sample#	Date Taken	Sample Location	Asbestos Content		Fibrous	Nonfibrous
Lab ID #	Date Analyzed	Material Sampled	Chrysotile	Amosite	Color	Background
						Other Description
2354	10/09/89	2ND FLOOR/HALLWAY	Chry 0			CELL., 2%
		WALL	Amos 0			BINDER
89-5449	11/02/89	PLASTER	Other 0			QUARTZ
			Total 0	Color:		KAOLIN
2355	10/09/89	2ND FLOOR/HALLWAY	Chry 0			CELL., 3%
		CEILING	Amos 0			BINDER
89-5450	11/02/89	TILE/TEX 12	Other 0			GLASS, 45%
			Total 0	Color:		QUARTZ
2356	10/09/89	2ND FLOOR/ELEVATOR	Chry 0			CELL., 3%
		CEILING	Amos 0			BINDER
89-5451	11/02/89	TILE/TEX 12	Other 0			GLASS, 45%
			Total 0	Color:		QUARTZ
2357	10/09/89	2ND FLOOR/CONFR	Chry 0			CELL., 30%
		ROOM				BINDER
		CEILING	Amos 0			GLASS, 20%
89-5452	11/02/89	TILE/2X4(A7)	Other 0			QUARTZ
			Total 0	Color:		
2358	10/09/89	2ND FLOOR/STAIRWELL	Chry 0			CELL., 2%
		CEILING	Amos 0			BINDER
89-5453	11/02/89	TILE/1X4 SPL	Other 0			GLASS, 50%
			Total 0	Color:		QUARTZ
2359	10/09/89	2ND FLOOR/COPY	Chry 0			CELL., 30%
		ROOM				BINDER
		CEILING	Amos 0			GLASS, 20%
89-5454	11/02/89	TILE/2X4(A7)	Other 0			QUARTZ
			Total 0	Color:		

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BULK SAMPLE ANALYSIS REPORT
(Polarized Light/Dispersion Stain, NIOSH 7403)
NEGATIVE RESULTS (NON-ASBESTOS)

CLIENT: CITY OF OXNARD

SITE: FIRST INTERST BANK

Sample#	Date Taken	Sample Location	Asbestos Content	Fibrous	Nonfibrous
Lab ID #	Date Analyzed	Material Sampled	Chrysotile	Background	Background
			Amosite	Color	Other Description
2360	10/09/89	1ST FLOOR/LOBBY	Chry 0	CELL., 30%	BINDER
		CEILING	Amos 0	GLASS, 45%	QUARTZ
89-5455	11/02/89	TILE/TEX 12	Other 0		
			Total 0	Color:	

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MARSH USA INC.

CERTIFICATE OF INSURANCE

CERTIFICATE NUMBER
SEA-000455879-00

PRODUCER

Marsh USA Inc
The Financial Center
1215 Fourth Avenue
Suite 2300
Seattle, WA 98161-1095
Attn: Marsh Quest Dept. Seattle 1-877-613-2200 ext. 2300

105408-CPOFF-ALL-00-01

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER OTHER THAN THOSE PROVIDED IN THE POLICY. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES DESCRIBED HEREIN.

COMPANIES AFFORDING COVERAGE

COMPANY

A LUMBERMANS MUTUAL CASUALTY COMPANY

COMPANY

B ARBELLA MUTUAL INSURANCE COMPANY

COMPANY

C AMERICAN PROTECTION INSURANCE COMPANY

COMPANY

D AMERICAN GUARANTEE & LIABILITY INS. CO.

INSURED

AT&T WIRELESS SERVICES, INC.
295 NORTH MAPLE AVENUE
ROOM NO. 7149L1
BASKING RIDGE, NJ 07920

COVERAGES

THIS IS TO CERTIFY THAT POLICIES OF INSURANCE DESCRIBED HEREIN HAVE BEEN ISSUED TO THE INSURED NAMED HEREIN FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THE CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, CONDITIONS AND EXCLUSIONS 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	5SX 142105-00	07/09/02	07/09/03	GENERAL AGGREGATE \$ 5,000,000
	☒ COMMERCIAL GENERAL LIABILITY				PRODUCTS - COMP/OP AGG \$ 2,500,000
	☐ CLAIMS MADE ☒ OCCUR				PERSONAL & ADV INJURY \$ 2,500,000
	OWNER'S & CONTRACTOR'S PROT				EACH OCCURRENCE \$ 2,500,000
					FIRE DAMAGE (Any one fire) \$
					MED EXP (Any one person) \$
A	AUTOMOBILE LIABILITY	F5D 008445-01 A/O	07/09/02	07/09/03	COMBINED SINGLE LIMIT \$ 2,500,000
A	☒ ANY AUTO	F5D 056155-01 PR	07/09/02	07/09/03	
A	ALL OWNED AUTOS	F5D 008447-01 TX	07/09/02	07/09/03	BODILY INJURY (Per person) \$
A	SCHEDULED AUTOS	F5D 008446-01 HI	07/09/02	07/09/03	
B	HIRED AUTOS	X3P 084836-01 MA	07/09/02	07/09/03	BODILY INJURY (Per accident) \$
	NON-OWNED AUTOS				PROPERTY DAMAGE \$
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT \$
	☐ ANY AUTO				OTHER THAN AUTO ONLY: \$
					EACH ACCIDENT \$
					AGGREGATE \$
D	EXCESS LIABILITY	AUC 9305217-00	07/09/02	07/09/03	EACH OCCURRENCE \$ 1,000,000
	☒ UMBRELLA FORM				AGGREGATE \$ 1,000,000
	OTHER THAN UMBRELLA FORM				\$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	5BR 083 549-01 A/O	07/09/02	07/09/03	☒ WC STATU- TORY LIMITS ☐ OTH- ER \$
C		5BR 083 550-01 Wi	07/09/02	07/09/03	EL EACH ACCIDENT \$ 2,500,000
C	THE PROPRIETOR/ PARTNERS/EXECUTIVE OFFICERS ARE: ☐ INCL ☐ EXCL	5BR 083 551-01 AZ, LA	07/09/02	07/09/03	EL DISEASE-POLICY LIMIT \$ 2,500,000
	OTHER				EL DISEASE-EACH EMPLOYEE \$ 2,500,000

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS (LIMITS MAY BE SUBJECT TO DEDUCTIBLES OR RETENTIONS)

Location requesting Certificate: 10000 Goethe Road, Sacramento, CA 95877
Lease Premises: Central Oxnard, 302 W. Third St., Oxnard, CA

A-5300

CERTIFICATE HOLDER

CITY OF OXNARD
ATTN: RISK MANAGER
300 WEST THIRD STREET, #302
OXNARD, CA 93030

CANCELLATION

SHOULD ANY OF THE POLICIES DESCRIBED HEREIN BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE INSURER AFFORDING COVERAGE WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED HEREIN, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER AFFORDING COVERAGE, ITS AGENTS OR REPRESENTATIVES.

MARSH USA INC.

By: Edward M. Belsky

Edward M. Belsky

MM1(9/99)

VALID AS OF: 07/09/02

FIRST AMENDMENT TO OPTION AND ROOFTOP LEASE AGREEMENT

This First Amendment, dated August 1, 2006, amends that certain Option and Rooftop Lease Agreement ("the Lease"), dated November 19, 1996, entered into by and between the City of Oxnard ("Landlord") and AT&T Wireless Services of California, Inc. ("Tenant"), whereby Landlord leases to Tenant a portion of the rooftop of a four story building located at 300 West Third Street, Oxnard, California, for the purpose of placing wireless communications equipment thereon.

WHEREAS, AT&T Wireless Services of California, Inc. sold and assigned its interest in the Lease to New Cingular Wireless PCS, LLC, a Delaware limited liability company, located at 6100 Atlantic Boulevard, Norcross, Georgia 30071; and

WHEREAS, New Cingular Wireless PCS, LLC wishes to place different and additional wireless communications equipment on the rooftop and has obtained from the City of Oxnard a wireless permit (PZ 06-230-01) to do so; and

WHEREAS, Landlord now owns the real property on which the building is located, and continues to own the building itself; and

WHEREAS, the parties wish to provide for different rent to be paid to Landlord;

NOW, THEREFORE, the parties agree that the Lease is amended as follows:

1. Pursuant to section 21 of the Lease, Landlord consents to AT&T Wireless Services of California, Inc.'s assignment of the Agreement to New Cingular Wireless PCS, LLC, which is the entity that shall hereinafter be referred to as "Tenant" in the Lease.
2. Exhibit B-1, attached hereto and incorporated herein by reference, shall replace Exhibit B of the Lease.
3. The following sentence is added at the end of subsection a of section 7 of the Lease: "Beginning on August 1, 2006, the Rent shall be Two Thousand Five Hundred Dollars (\$2500) per month."
4. Subsection c of section 7 of the Lease is amended to read: "Beginning on August 1, 2007, and on each August 1 thereafter that this Lease is in effect, the Rent shall be adjusted by the percentage change since May 1 of the previous year in the Consumer Price Index

COUNCIL APPROVAL

DATE: 08/01/06 AGENDA # I-2

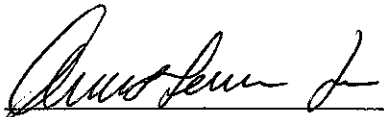
prepared by the Bureau of Labor Statistics for the Los Angeles-Anaheim- Riverside area relating to all urban consumers.”

5. Subsection (d) is added to section 9 of the Lease, to read:

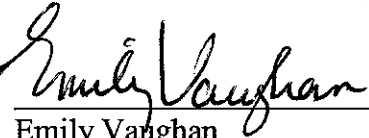
“(d) Tenant shall comply with all tower marking and lighting and other requirements of the Federal Aviation Commission and the Federal Communications Commission. Tenant indemnifies and holds Landlord harmless from any liability and fines arising from Tenant’s failure to comply with such requirements.”
6. The following sentence is added at the beginning of section 13 of the Lease: “This Agreement may create a taxable property interest in the Premises.”
7. Section 19(a) of the Lease shall read as follows: “Landlord warrants that it (i) has full right, power and authority to execute this Lease; (ii) has good and unencumbered title to the Building free and clear of any ground leases, liens, mortgages or other encumbrances that would interfere with Tenant’s intended use of the Premises; and (iii) has the power to grant the access rights as set forth in Paragraph 9(c) above. Landlord further warrants that Tenant shall have the quiet enjoyment of the Premises during the term of this Lease.”
8. Exhibit C of the Lease is deleted.
9. Subsection (g) of section 27 of the Lease is deleted.

Dated: August 1, 2006.

LANDLORD
City of Oxnard

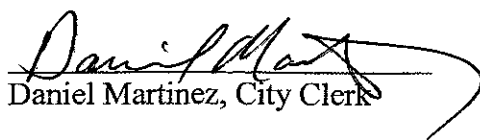


Thomas E. Holden, Mayor

TENANT
New Cingular Wireless PCS,
LLC, a Delaware Limited
Liability ~~Corporation~~ Company


Emily Vaughan
Development Manager

ATTEST:



Daniel Martinez, City Clerk

APPROVED AS TO FORM:

Paula Kimbrell for
Gary L. Gillig, City Attorney

APPROVED AS TO CONTENT:

Karen R. Brunkum (for)
Edmund F. Sotelo, City Manager

SECOND AMENDMENT TO OPTION AND ROOFTOP LEASE AGREEMENT

THIS SECOND AMENDMENT ("**Second Amendment**") to the Option and Rooftop Lease Agreement ("**Agreement**") is made and entered into in the County of Ventura, State of California, this 1st day of April, 2015, by and between the City of Oxnard, a municipal corporation ("**Landlord**"), and New Cingular Wireless PCS, LLC, a Delaware Limited Liability Company ("**Tenant**"). This Second Amendment amends the Option and Rooftop Lease Agreement entered into on November 19, 1996, whereby Landlord leases to Tenant a portion of the rooftop of a four story building located at 300 West Third Street, Oxnard, California, for the purpose of placing wireless communication equipment thereon. The Agreement has previously been amended on August 1, 2006, by a First Amendment to Option and Rooftop Lease Agreement.

Landlord and Tenant agree as follows:

1. Section 9(c) of the Lease shall be amended to read as follows:

"Landlord shall provide Tenant ingress and egress from an open and improved public road, and access over and across the Property and to and within the Building adequate to service the Antenna Facilities at all times during the term of this Lease or any renewal thereof at no additional charge to Tenant. Tenant shall be entitled to twenty-four (24) hour, seven (7) days per week, access to the Premises. Access shall be provided by Landlord's staff within forty-five (45) minutes of notification by Tenant to Landlord by calling 805-385-8099 during normal business hours or 805-385-7600 after hours and requesting access or by calling such other phone number that Landlord may provide Tenant for the purpose of prior notification. Additionally, all Tenant personnel, whether employee or contractor, shall display proper credentials at all times while on Premises."

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

[SIGNATURES ON FOLLOWING PAGE]

LANDLORD

CITY OF OXNARD,
a municipal corporation



Tim Flynn, Mayor

TENANT

NEW CINGULAR WIRELESS PCS, LLC,
a Delaware Limited Liability Company

By: ATT Mobility Corporation
Its: Manager



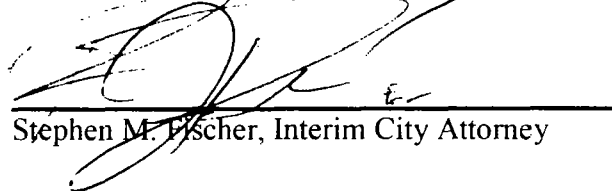
James Stickney,
Director Construction & Engineering

ATTEST:



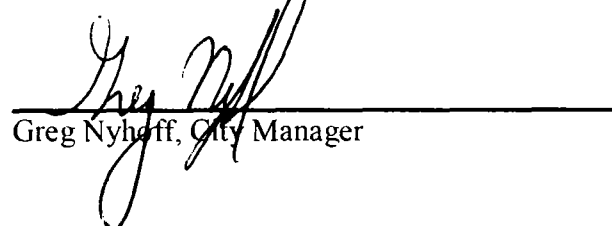
Daniel Martinez, City Clerk

APPROVED AS TO FORM:



Stephen M. Fischer, Interim City Attorney

APPROVED AS TO CONTENT:



Greg Nyhoff, City Manager

TENANT ACKNOWLEDGMENT

STATE OF _____)

) ss:

COUNTY OF _____)

On the ____ day of _____, 20____, before me personally appeared _____, and acknowledged under oath that he/she is the _____ of AT&T Mobility Corporation, the ~~Manager~~ ^{SOLE} of New Cingular Wireless PCS, LLC, the Tenant named in the attached instrument, and as such was authorized to execute this instrument on behalf of the Tenant.

Notary Public: _____

My Commission Expires: _____

LANDLORD ACKNOWLEDGMENT

STATE OF _____)

) ss:

COUNTY OF _____)

On the ____ day of _____, 20____ before me, personally appeared _____, who acknowledged under oath, that he/she is the person/officer named in the within instrument, and that he/she executed the same in his/her stated capacity as the voluntary act and deed of the Landlord for the purposes therein contained.

Notary Public: _____

My Commission Expires: _____

ACKNOWLEDGEMENT

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document

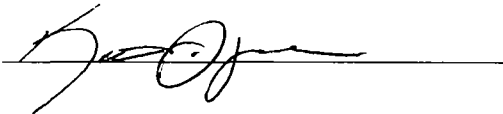
State of California
County of Orange)

On June 11, 2015 before me, Katelyn S. Voss, Notary Public, personally appeared James Stickney, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



(Seal)







CITY COUNCIL AGENDA REPORT

INFORMATION/CONSENT AGENDA

AGENDA ITEM NO. K.6

DATE: July 18, 2023

TO: City Council

FROM: Jason Benites, Police Chief, (805) 385-7624, jason.benites@oxnardpd.org

SUBJECT: Agreement for School Resource Officer (SRO) Services to the Oxnard Union High School District (OUHSD).

RECOMMENDATION

That the City Council approve and authorize the City Manager to execute a cost-sharing agreement between the City of Oxnard and the Oxnard Union High School District, for a three-year period, in the amount of \$778,309 for Police School Resource Officer (SRO) Services.

BACKGROUND

The agreement sets forth guidelines between the OUHSD and the Oxnard Police Department to ensure an understanding of the goals of the SRO program and the District's commitment to reimburse the Police Department for a portion of the personnel costs associated with the program.

The District agrees to reimburse the Oxnard Police Department for the combined equivalent of approximately 75% of personnel costs for five (5) SROs, including agreeing to fully reimburse the City for costs associated with staffing special school events.

SCHOOL RESOURCE OFFICER PROGRAM OVERVIEW

The SROs will serve the District with five (5) high schools and approximately 17,500 students.

SROs assist school administrators in helping maintain a safe campus environment that is conducive to learning. SROs provide a visible presence to deter disturbances and identify trespassers on campus. School officials rely on the training, knowledge, and experience of SROs to handle dangerous situations involving fights, weapons, and the identification of dangerous drugs. SROs also serve the surrounding community by addressing loitering, speeding, and other traffic issues.

STRATEGIC PRIORITIES

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

FINANCIAL IMPACT

City costs associated with School Resource Officer services are included in the FY2023-24 General Fund Police Department operating budget. Revenue of \$778,309 is also included, reflecting the first year's cost share with Oxnard School District. If approved, staff will include revenue for years 2 and 3 of the agreement in future General Fund budgets as part of the annual budget process.

For Finance Use Only: General Fund (Org. 1012111 Obj. 47700)

COMMITTEE OUTCOME

The Public Safety Committee approved 3-0 on June 13, 2023 to approve the staff recommendation and to forward the item for Council approval.

Prepared by: Luis McArthur, Police Commander

ATTACHMENTS

1. FY 2023-2026 OUHSD 3yr Contract
2. PowerPoint on SROs and OUHSD Partnership

Agreement No.

**AGREEMENT FOR POLICE SCHOOL RESOURCE OFFICER SERVICES
AND COST- SHARING**

This Agreement for Police School resource officer Services ("**Agreement**") by and between the City of Oxnard, a municipal corporation ("**City**"), and the Oxnard Union High School District ("**OUHSD** or "**District**") is made and entered into as of July 1, 2023. City and District are sometimes individually referred to as "Party" and collectively as "Parties."

WHEREAS, the purpose of this Agreement is to maintain the School Resource Officer (SRO) program and to set forth guidelines to ensure that law enforcement, school officials, and the communities they serve have a shared understanding of the goals of the SRO program and that SROs receive the necessary support and training to ensure a safe school environment while respecting the rights of students and improving the overall school climate;

WHEREAS, the parties agree that an effective SRO program sets forth: the role of the SRO within the context of the educational mission of the school; distinctions between disciplinary misconduct to be handled by school officials and criminal offenses to be handled by law enforcement; respect for the rights of students; transparency and accountability; and minimum SRO training requirements;

WHEREAS, this Agreement focuses on the role of the SROs as it relates to students and faculty; it does not govern how SROs will conduct operations when dealing with adult non-school district employees in and around a school facility;

WHEREAS, the parties intend to work together to share costs and ensure the continuity of the School Resource Officer program on HSD school campuses.

City and District hereby agree as follows:

1. Scope of Services. The Oxnard Police Department ("**OPD**") shall provide the services of five (5) School Resource Officers ("SROs") to OUHSD school campuses. The SRO will work with OUHSD district staff and staff at individual schools to determine schedules and specific services at each school site. This will allow the activities and support provided by the SROs to be tailored to each school's specific needs. It will also provide flexibility for the SRO's law enforcement responsibilities and involvement with intracurricular and extracurricular activities.
2. Method of Performing Services. Subject to the terms and conditions of this Agreement, OPD personnel may determine the method, details, and means of performing the Services described herein and the duration of the Services. OPD shall perform services consistent with the SRO guidelines detailed in **Exhibit A**, attached hereto, and incorporated by this reference in full herein.

3. Cost Sharing; Reimbursement, Method of Payment. City and District agree that the District shall be obligated to fund Seventy-Five percent (75%) of the cost to operate and administer the SRO program for FY 2023-2024 through 2025-2026 and that City shall fund the balance. City shall submit to District an invoice for Seven Hundred Seventy-Eight Thousand Three Hundred and Nine Dollars (\$778,309) no less than thirty (30) days prior to the end of each fiscal year: June 30, 2024, for FY 2023-2024, June 30, 2025, for FY 2024-2025, and June 30, 2026, for FY 2025-2026.

City shall send invoices to: Assistant Superintendent of Business Services, Oxnard Union High School District, 1800 Solar Drive, Oxnard, CA 93030. District shall, within thirty (30) days of receiving such invoice, review the invoice and pay all charges.

4. Nonexclusive Services. This Agreement shall not be interpreted to prevent or preclude OPD personnel from rendering any services to any other person or entity as City, in its sole discretion, shall determine. City agrees that performing such services will not materially interfere with services performed under this Agreement.
5. Reporting Requirements for District/School Staff of Suspected Child Abuse Committed by a District/School Employee. Reports of suspected child abuse, including any sexual misconduct by any District/School employee, shall be reported immediately, or as soon as practicably possible, to the designated SRO or the Youth Services Sergeant. If the SRO or SRO Sergeant is unavailable, the on-duty Oxnard Police Department Watch Commander will be contacted. The police personnel receiving the report from the school district employee will make a notification directly to the Family Protection Unit (FPU) Sergeant. This verbal notification to the SRO or Youth Services Sergeant does not preclude the District/School from preparing and sending a fax or electronically transmitted written follow-up report within 36 hours of receiving the information concerning the incident (Form SS 8572 Suspected Child Abuse) or any other mandatory reporting requirements.
6. Term. The term of this Agreement shall be from July 1, 2023, to June 30, 2026, unless earlier terminated as provided herein. This Agreement may be renewed for up to two (2) additional annual terms through mutually agreed upon contract amendments.
7. Termination. Either Party may, by written notice to the other, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to the other Party of such termination and specifying the effective date thereof, at least thirty (30) business days before the effective date of such termination. Upon termination of this Agreement, City shall be compensated for those Services that City has provided to District up to the effective termination date.
8. Force Majeure. City and District agree that neither City nor District shall be responsible for delays or failures in performance resulting from acts beyond the control of either Party. Such acts shall include, but not be limited to, acts of God, strikes, lockouts, riots,

acts of war, epidemics, governmental regulations imposed after this Agreement was executed, fire, communication line failures, earthquakes, or other disasters.

9. Mutual Indemnification. Each Party shall defend, hold harmless, and indemnify the other Party and its officers, directors, employees, agents, and representatives against any and all loss, liability, damage, or expense, including any direct, indirect, or consequential loss, liability, damage, or cost of defense (including attorneys' fees) for injury or death to persons, including employees of either Party and damage to property, including the property of either Party, arising out of or in connection with the indemnifying Party's performance of this Agreement or failure to comply with any of its obligations contained in this Agreement. However, neither Party shall be indemnified hereunder for any loss, liability, damage, or expense resulting from its sole negligence or willful misconduct.
10. Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective Parties at the following addresses or at such other address as the respective Parties may provide in writing for this purpose:

City:

Oxnard Police Department
251 South "C" Street
Oxnard, California 93030
Attention: Jason Benites, Chief of Police

District:

Oxnard Union High School District
1800 Solar Drive
Oxnard, California 93030
Attention: Dr. Tom McCoy, Superintendent

Such notice shall be deemed made when personally delivered or mailed, forty-eight (48) hours after deposit in the U.S. Mail, first-class postage prepaid and addressed to the Party at its applicable address. Actual notice shall be deemed adequate on the date the actual notice occurred, regardless of the service method.

11. Governing Law. This Agreement shall be governed by the laws of the State of California without regard to the conflicts of laws principles. This Agreement shall be deemed to have been made in the County of Ventura, regardless of the order of signatures of the Parties affixed hereto. Any litigation or other legal proceedings which arise under or in connection with this Agreement shall be conducted in a federal or state court located within or for the County of Ventura, California. The Parties consent to the personal jurisdiction and venue of a federal or state court located within or for the County of Ventura, California, and hereby waive any defenses or objections thereto, including defenses based on the doctrine of forum non conveniens.

12. Successors and Assigns. This Agreement shall be binding on the successors and assigns of the Parties.
13. Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed according to its fair meaning and not strictly for or against any Party. Any term referencing time, days, or performance period shall be deemed calendar days, not workdays, unless otherwise specified. All references to City include all officials, officers, employees, personnel, agents, volunteers, contractors, and subcontractors of City, except as otherwise specified in this Agreement. All references to District include all officials, officers, employees, personnel, agents, volunteers, contractors, and subcontractors of District unless otherwise specified in this Agreement. The captions of the various paragraphs and sections are for convenience and ease of reference only and do not define, limit, augment, or describe this Agreement's scope, content, or intent.
14. Assignment. The Parties may not assign, hypothecate or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of the other Party.
15. Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.
16. Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.
17. No Third-Party Beneficiaries. This Agreement and the performance of the obligations hereunder are for City and District's sole and exclusive benefit. No person or entity who or which is not a signatory to this Agreement shall be deemed to be benefited or intended to be benefited by any provision hereof, and no such person or entity shall acquire any rights or causes of action against either City or District hereunder as a result of the Parties performance or nonperformance of their respective obligations under this Agreement.
18. Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.
19. Cooperation; Further Acts. The Parties shall fully cooperate and take any other acts or sign any additional documents that may be necessary, appropriate, or convenient to attain the purposes of this Agreement.
20. Authority to Enter Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

21. Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

22. Entire Agreement. This Agreement contains the entire Agreement of the Parties concerning the subject matter hereof and supersedes all prior negotiations, understandings, or agreements.

CITY OF OXNARD

OXNARD UNION HIGH SCHOOL
DISTRICT

Alexander Nguyen, City Manager

Dr. Tom McCoy, Superintendent

APPROVED AS TO FORM

Stephen M. Fischer, City Attorney

APPROVED AS TO CONTENT

Jason Benites, Police Chief

EXHIBIT “A”

SRO Guidelines

ROLE OF THE SRO IN THE CONTEXT OF THE EDUCATIONAL MISSION OF THE SCHOOL DISTRICT TO ALIGN SUPPORT AND SERVICES FOR STUDENTS, FAMILIES, AND STAFF.

1. The mission of the SRO program is to assist the school in maintaining a safe environment and to develop a positive relationship between students and law enforcement.
2. School administrators shall be informed as to whether an SRO will be deployed to the school and shall participate in periodic performance reviews of the SRO.
3. The SRO shall meet with school administrators, teachers, parents, and student representatives at least annually and as needed to discuss school safety issues.
4. The SRO shall be integrated into the school community through participation in faculty and student meetings and assemblies as appropriate.
5. The SRO shall maintain weekly activity reports and submit these reports to his or her direct supervisor.
6. The SRO will participate as a member of the OUHSD Interdisciplinary Wellness Team.

DISTINGUISHING DISCIPLINARY MISCONDUCT TO BE HANDLED BY SCHOOL OFFICIALS FROM CRIMINAL OFFENSES TO BE HANDLED BY LAW ENFORCEMENT

1. SROs are responsible for criminal public order offenses, not for school discipline issues.
2. Absent a real and immediate threat, as determined by the SRO, to a student, teacher, or public safety and, unless sufficient evidence and circumstances warrant police action or intervention, SROs should not get involved in school discipline issues. School officials should generally handle these rather than through formal law enforcement intervention (e.g., issuance of a criminal citation, referral to a probation officer, or actual arrest.)

RESPECT FOR THE RIGHTS OF STUDENTS

1. Absent a real and immediate threat to a student, teacher, or public safety, an SRO may conduct or participate in a search of a student’s person, possessions, or locker only where there is reasonable suspicion to believe that the search will turn up evidence that the child has committed or is committing a criminal offense.
 1. The SRO shall inform school administrators prior to conducting reasonable suspicion searches.
 2. The SRO shall not ask school officials to search a student’s person, possessions, or locker to circumvent these protections.
 3. At a minimum, all searches will be documented by a field interview report (FIR) detailing the circumstances of the search.
2. When a school official conducts a search of a student’s person, possessions, or locker, the school official may ask an SRO to be present or to participate in such a search only when there is reasonable suspicion to believe that the search will turn up evidence that the

student has violated or is violating the law and the search is justified in scope given such suspicion.

3. Absent a real and immediate threat to a student, teacher, or public safety, a school official shall attempt to minimize requests to have an SRO present or participate in questioning a student that involves non-criminal matters.
4. When an SRO interviews a student for a criminal matter, reasonable attempts should be made by a school official or an SRO to inform the student's parents of the circumstances which led to that interview when it is practical to do so and when it would not unreasonably interfere with such investigation.

SRO TRAINING REQUIREMENTS

1. Every SRO shall attend a 40-hour Peace Officers Standards and Training (POST) approved Basic School Resource Officer course within their first year of service. Additionally, an effort will be made to complete 10 hours of annual in-service training on topics such as:
 1. Child and adolescent development and psychology;
 2. Positive behavioral interventions and supports (PBIS), conflict resolution, peer mediation, or other restorative justice techniques;
 3. Children with disabilities or other special needs; and
 4. Cultural competency.

PROMOTING NON-PUNITIVE APPROACHES TO STUDENT BEHAVIOR

1. The SRO shall be familiar with and trained in programs adopting non-punitive approaches to discipline available in the school district. Examples of such programs include but are not limited to Lesson One, Wellness Collaborative, and the Olweus Bullying Program.

TECHNOLOGY SERVICES AND SUPPORT

1. For the Oxnard PD's SROs to serve the students of the OUHSD, all SROs will be given a user-specific login and access to the OUHSD network to:
 - a. Login
 - b. Run productivity software, including Microsoft Office
 - c. Print to District/School printers
 - d. Access the Internet thru the District's Internet Filter
 - e. Access WebMail from a third-party provider
1. SROs will not be provided:
 1. Access to install programs on workstations or servers
 2. Access to District email accounts or the District's email address book
 3. Access to the District's Student Information System
 4. Access to other District files

AGREEMENT FOR POLICE SCHOOL RESOURCE OFFICER SERVICES

FY 2023-2026

Commander Luis Mc Arthur

Recommendation:

That the City Council approve and authorize the City Manager to execute a cost-sharing agreement between the City of Oxnard and the Oxnard Union High School District, for a three-year period, in the amount of \$778,309, for Police School Resource Officer (SRO) Services.

The agreement involves the reimbursement to the City for the services of five police officers that provide enhanced police services to the OUHSD. In general, the City is reimbursed for 75% of personnel costs related to the five SROs. The District's cost-sharing amount for one fiscal year is \$778,309 (75% of the cost of the five officers).

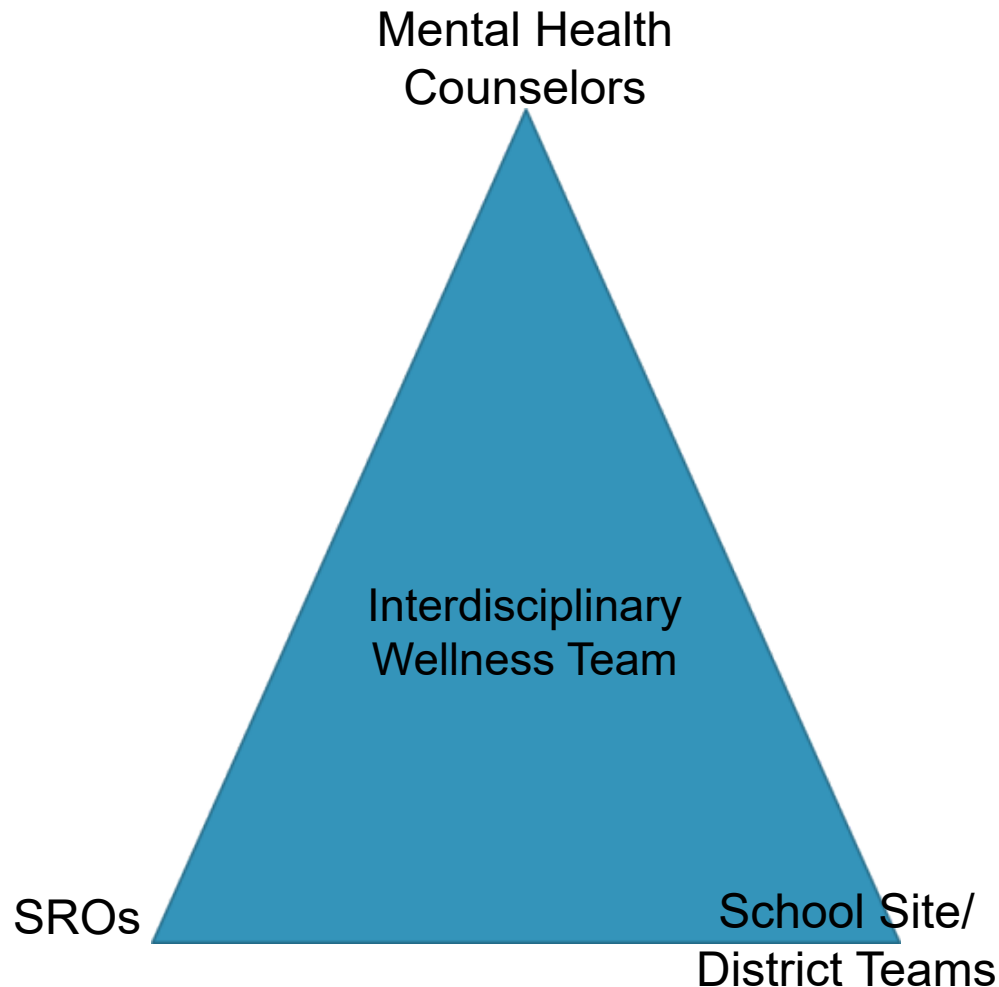
School Resource Officers (SROs) are Oxnard Police Officers dedicated to building community, providing support, and building positive relationships with OUHSD schools, students, and families.

Officers go through specific training prior to becoming SROs

On a daily basis SROs:

- Ensure that all students, staff, and campuses are safe
- Serve as a liaison between schools and the police department
- Work with students on making positive choices that will help deter them from joining gangs and/or having problems with drugs and/or alcohol
- The presence of SROs on and around the campuses promotes positive relationships with students and builds trust with OPD. Links to the surrounding school community can help in keeping OUHSD campuses safe.

- SROs will be part of a district wellness team with the focus on identifying and supporting students who have significant social-emotional and/or behavior needs. The team will work with school and district teams in a coordinated effort to provide support to students, families, and staff.
- Through this team, campus visits, and getting to know the students, SROs can help identify needs of students and work with sites on proactive strategies to prevent significant behavior issues.



- The mission of the SRO program is to assist the school in maintaining a safe environment and to develop a positive relationship between students and law enforcement.
- The SRO shall be integrated into the school community through participation in faculty and student meetings and assemblies as appropriate.
- The SRO will participate as a member of the OUHSD Interdisciplinary Wellness Team.
- SROs and OPD can also provide training to students, staff and families on drugs and other issues.

- Respect for the rights of students
- Building positive relationships with students
- Preventative instead of reactive

Distinguishing Disciplinary Misconduct to be Handled by School Officials From Criminal Offenses to be Handled by Law Enforcement

SROs are responsible for criminal public order offenses; they are not responsible for school discipline issues.

Absent a real and immediate threat, as determined by the SRO, to a student, teacher, or public safety and, unless there is sufficient evidence and circumstances that warrant police action or intervention, SROs should not get involved in school discipline issues.

These should generally be handled by school officials rather than through formal law enforcement intervention (e.g., issuance of criminal citation, referral to a probation officer, or actual arrest.)

Absent a real and immediate threat to a student, teacher, or public safety, an SRO may conduct or participate in a search of a student's person, possessions, or locker only where there is reasonable suspicion to believe that the search will turn up evidence that the child has committed or is committing a criminal offense.

- The SRO shall inform school administrators prior to conducting reasonable suspicion searches.
- The SRO shall not ask school officials to search a student's person, possessions, or locker in an effort to circumvent these protections.
- All searches at a minimum will be documented by a field interview report (FIR) that details the circumstances of the search.



QUESTIONS



CITY COUNCIL AGENDA REPORT
INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. K.7

DATE: July 18, 2023

TO: City Council

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.

RECOMMENDATION

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.

(Finance and Governance Committee approved 3-0 on June 27, 2023.)

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 FY 23-24 adopted operational budget.

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

COMMITTEE OUTCOME

Finance and Governance Committee approved 3-0 on June 27, 2023, to approve the staff recommendation and to forward the item for City Council approval.

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. -- signed (1)

AGREEMENT/AMENDMENT REVIEW FORM
Please write in N/A for any section that is not applicable

Contractor/Vendor/Consultant: Aten Design Group, Inc. **Agreement No:** 9675-22-CM
Address: 1615 Platte Street, Suite 200 Denver, CO 80202
Contact Name: Joe Crespo **Email:** joe@atendesigngroup.com **Phone:** 303-831-0448 **INS-** W
Committee Date: _____ **Council Date:** _____
Committee Agenda #: _____ **Council Agenda #:** _____

Department: Office of the City Manager **Contingency Requested:** \$ _____
Project Manager: Katie Casey **EISPM Funds ¹ Requested:** \$ _____
Phone: 805-385-7593 **Value of Agreement :** \$ 169,950.00
Email: katie.casey@oxnard.org **Amendment No:** _____
Type of Agreement: Professional Services **Value of Amendment:** \$ _____
Business Tax Cert No. _____ **Current Agr. Val. (w/amendments)** \$ 169,950.00
Secretary of State ID: _____ **P.O. No. (if existing agreement):** _____
Agreement Term: 1 year **Req. No. (if new agreement):** _____
Termination Date: May 31, 2023 **Funding Source:** Non-departmental
Bid No.: _____ **Account No. ²:** 101-1001-801-8209
NSS Control #: _____

Purpose of Agreement/Amendment: City website redesign project

Review Sequence (please write in N/A for any steps not required)

1. Project Manager
2. Division Manager
3. Assistant Department Director
4. Department Director
5. General Accounting (for Leases only)
6. Budget Management
7. Risk Management³
8. City Attorney
9. Contractor/Vendor/Consultant (signs contract; no need to initial this form)
10. Buyer⁵
11. Purchasing Manager⁶
12. City Manager/ACM⁷
13. Mayor⁸
14. City Clerk⁹

<u>Initials</u>	<u>Date</u>
<u>JK</u>	<u>6/17/22</u>
<u>JK</u>	<u>6/17/22</u>
_____	_____
_____	_____
<u>AK</u>	<u>7/26/22</u>
<u>JK</u>	<u>6/17/22</u>
_____	_____
<u>AK</u>	<u>6/28/2022</u>
_____	_____
_____	_____

**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.

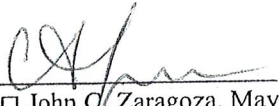
38. Electronic Transmission of Contract and Signature. The parties agree that this Agreement may be transmitted and signed by electronic or digital means by either/any or both/all Parties and that such signatures shall have the same force and effect as original signatures, in accordance with California 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

ATEN DESIGN GROUP, INC., a Colorado Corporation

 6/28/2022
☐ John C. Zaragoza, Mayor¹ Date
☒ Alexander Nguyen, City Manager
☐ Jennifer Yates, Purchasing Manager
☐ [name], Buyer

 6/22/2022
 Justin Toupin, CEO² 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:

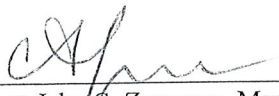
- For a corporation, the signatures of the Board President, CEO or Vice President and of the Board Secretary, Assistant Secretary, CFO or Assistant Treasurer;
- For an LLC, the signatures of at least two managers of the LLC; or
- For a partnership, the signature of a partner. If the partnership is a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

ATEN DESIGN GROUP, INC., a Colorado Corporation

 6/28/2017
☐ John C. Zaragoza, Mayor¹ Date
☒ Alexander Nguyen, City Manager
☐ Jennifer Yates, Purchasing Manager
☐ [name], Buyer

 Justin Toupin, CEO² 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 <i>Estimated starting June 2022</i>		\$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 <i>Estimated Start July/August 2022</i>		\$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 <i>Estimated Start August/September - November 2022</i>		\$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.
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RESPONSIVE & ACCESSIBLE DESIGN 8 Weeks Up to 120 Hours of Budgeted time <i>Estimated Start November/December 2022 - January/February 2023</i>		\$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 <i>Starting January/February 2023 - March/April 2023</i>		\$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 <i>Starting June 2022</i>		\$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 <i>Starting July 2022</i>		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
Strategy & User Research	100	\$16,500
Workshops	60	\$9,900
Information Architecture	140	\$23,100
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 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		
INSURED ATEN DESIGN GROUP INC 1615 S PLATTE ST. SUITE 200 DENVER, CO. 80202	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: State Farm Fire and Casualty Company		25143
	INSURER B:		☒
	INSURER C:		☒
	INSURER D:		☒
	INSURER E:		☒
INSURER F:		☒	

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	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ 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 ☒ HIRED AUTOS ONLY ☒ SCHEDULED AUTOS ☒ 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
	☒ UMBRELLA LIAB ☐ EXCESS LIAB 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	☒ 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 1,000,000 Total Limit of Liability 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.



CERTIFICATE OF LIABILITY INSURANCE

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

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PRODUCER  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 E-MAIL ADDRESS: TAMMY.HILL.JHPQ@STATEFARM.COM FAX (A/C, No.): 303.399.2260	
INSURED ATEN DESIGN GROUP INC 1615 S PLATTE ST. SUITE 200 DENVER, CO. 80202		INSURER(S) AFFORDING COVERAGE INSURER A: State Farm Fire and Casualty Company INSURER B: ☐ INSURER C: ☐ INSURER D: ☐ INSURER E: ☐ INSURER F: ☐	
		NAIC # 25143	

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

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INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
☒	COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ 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 - COM/OP AGG \$ 4,000,000 \$
☒	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY ☒ HIRED AUTOS ONLY SCHEDULED AUTOS 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) \$ \$
☒	UMBRELLA LIAB EXCESS LIAB DED RETENTION \$	OCCUR CLAIMS-MADE	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? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N/A	96-MT-F677-1	01/07/2022	01/07/2023	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 100,000 E.L. DISEASE - EA EMPLOYEE \$ 100,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
	Technology Services Errors and Omissions Liability Insurance	Y	PS0000003916311	12/14/2021	12/14/2022	Limit of Liability 1,000,000 Total Limit of Liability 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

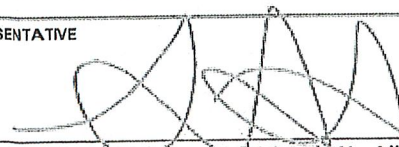
CERTIFICATE HOLDER

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 100085-0X
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.

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.

AGENCY CUSTOMER ID: _____

LOC #: _____



ADDITIONAL REMARKS SCHEDULE

Page 1 of 1

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		EFFECTIVE DATE: 06/20/2022	
CARRIER State Farm Fire and Casualty Company	NAIC CODE 25143		

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.

**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



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

09/09/2023

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  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																					
INSURED ATEN DESIGN GROUP INC 1615 S PLATTE ST. SUITE 200 DENVER, CO. 80202	<table><tr><th colspan="2">INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr><tr><td>INSURER A :</td><td>State Farm Fire and Casualty Company</td><td>25143</td></tr><tr><td>INSURER B :</td><td>☒</td><td></td></tr><tr><td>INSURER C :</td><td>☒</td><td></td></tr><tr><td>INSURER D :</td><td>☒</td><td></td></tr><tr><td>INSURER E :</td><td>☒</td><td></td></tr><tr><td>INSURER F :</td><td>☒</td><td></td></tr></table>	INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A :	State Farm Fire and Casualty Company	25143	INSURER B :	☒		INSURER C :	☒		INSURER D :	☒		INSURER E :	☒		INSURER F :	☒	
INSURER(S) AFFORDING COVERAGE		NAIC #																				
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INSURER B :	☒																					
INSURER C :	☒																					
INSURER D :	☒																					
INSURER E :	☒																					
INSURER F :	☒																					

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	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ 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 ☒ HIRED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ 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) \$ \$ 2,000,000
	☒ UMBRELLA LIAB ☐ EXCESS LIAB DED ☐ RETENTION \$			96-KW-7909-0	09/17/2022	09/17/2023	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	☒ 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 1,000,000 Total Limit of Liability 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**CANCELLATION**

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

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.

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:

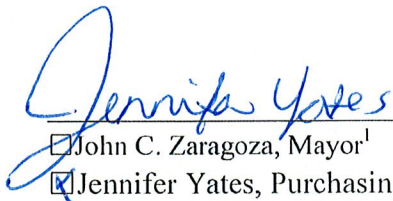
1. The references to the “Schedule of Services Exhibit A” and “EXHIBIT A SCOPE OF SERVICES” everywhere those terms are listed both on the Cover Page of the Agreement and in the Agreement are hereby amended to “Scope of Services Exhibit A-1.” The “Schedule of Services Exhibit A” and “EXHIBIT A SCOPE OF 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]

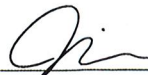
IN WITNESS WHEREOF, the parties hereto have executed the Amendment on the date first written above.

CITY OF OXNARD
Corporation

ATEN DESIGN GROUP, INC., a Colorado

 6/20/2023

☐ John C. Zaragoza, Mayor¹ Date
☒ Jennifer Yates, Purchasing Agent³

 June 19, 2023

Justin Toupin, CEO², 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 <i>Started August 2022</i>		\$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 <i>September - October 2022</i>		\$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 <i>Started December 2022</i>		\$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 <i>Started February 2023</i>		\$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 <i>Started April 2023</i>		\$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 <i>Estimated Fall/Winter 2023-24</i>		\$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 <i>Estimated Fall/Winter 2023-24</i>		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
Corporation

ATEN DESIGN GROUP, INC., a Colorado

☐ John C. Zaragoza, Mayor¹ Date _____

☐ Jennifer Yates, Purchasing Agent³ _____


Justin Toupin, CEO²,
Date 6/26/2023

4
Date _____

ATTEST:

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

APPROVED AS TO FORM:



Stephen M. Fischer, City
Attorney (always required)

6/20/2023
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 <i>Started August 2022</i>		\$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 <i>September - October 2022</i>		\$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 <i>Started December 2022</i>		\$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 <i>Started February 2023</i>	\$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
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Agile Development Sprints Up to 550 Hours of Budgeted time <i>Started April 2023</i>		\$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 <i>Estimated Fall/Winter 2023-24</i>		\$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.
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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 <i>Estimated Fall/Winter 2023-24</i>	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.



CITY COUNCIL AGENDA REPORT

INFORMATION/CONSENT AGENDA

AGENDA ITEM NO. K.8

DATE: July 18, 2023

TO: City Council

FROM: Javier Chagoyen-Lazaro, Chief Financial Officer, 805-385-5400, javier.chagoyenlazaro@oxnard.org

SUBJECT: Adopt Resolution Declaring the Intent of the City to be Reimbursed from Potential Bond Proceeds for Expenditures Made Towards Street and Alleyway Improvements.

RECOMMENDATION

That the City Council approve and authorize a resolution declaring the intent of the City to be reimbursed for certain capital expenditures from the proceeds of indebtedness.

BACKGROUND

On October 18, 2022, City Council and the Board of Directors of the City of Oxnard Financing Authority approved the issuance of not to exceed \$36 million Lease Revenue Bonds, Series 2022A to finance street improvements and \$9 million Lease Revenue Bonds, Series B (together, the "Bonds") to finance the implementation of Phases 3 and 4 of the City's ERP Project.

City staff were working with the City's municipal financial advisors, special legal counsel, and underwriters to structure and sell the Bonds. However, the timing of the issuance of the Bonds has been delayed due to the latest Aaron Starr lawsuit. In order to avoid delays in the construction of the street improvements and ERP implementation, City staff propose to use cash reserves in the General Fund and Measure O to cover the cost of those projects until the Bonds can be issued. Accordingly, City staff propose this reimbursement resolution so that the City's General Fund may be reimbursed for tax-exempt street improvement costs that are incurred prior to the issuance of the Bonds; the ERP Bonds, which would be taxable, require no such resolution for reimbursement.

In order for the reimbursement of previously expended project costs from Bond proceeds to be compliant with the IRS requirements, the City is required to adopt a resolution declaring its intention to be reimbursed within 60 days of when the costs were paid by the City.

While adopting the reimbursement resolution demonstrates the City's intent to borrow funds and preserves the option for the City to be reimbursed in the future, adopting the reimbursement resolution does not directly obligate the City to issue the Bonds. If Bonds are issued, this resolution does not obligate the City to reimburse the General Fund for costs that may be incurred before the Bonds are issued.

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

This reimbursement resolution does not directly obligate the City to incur a financial liability and is not expected to have any direct financial impact on the City.

COMMITTEE OUTCOME

The Finance and Governance Committee approved 3-0 on May 23, 2023 to approve the staff recommendation and to forward the item for Council approval.

Prepared by: NHA Advisors, LLC

ATTACHMENTS

1. Oxnard Streets Reimbursement - Resolution

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD DECLARING THE INTENT OF THE CITY TO BE REIMBURSED FOR CERTAIN CAPITAL EXPENDITURES FROM THE PROCEEDS OF INDEBTEDNESS

WHEREAS, the City of Oxnard (the "City") intends to finance certain street improvement projects throughout the City (the "Project"); and

WHEREAS, the City will pay certain Capital Expenditures in connection with the Project (the "Street Improvement Expenditures") prior to the issuance of one or more series of tax-exempt obligations in the expected approximate principal amount of \$36 million (the "Street Improvement Indebtedness") for the purpose of financing costs associated with the Project; and

WHEREAS, the City reasonably expects that certain of the proceeds of the Street Improvement Indebtedness will be used to reimburse the City for the Street Improvement Expenditures; and

WHEREAS, Section 1.150-2 of the Treasury Regulations requires the City to declare its official intent to be reimbursed for prior Capital Expenditures made for the Project with proceeds of a subsequent borrowing.

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

Section 1. The City finds and determines that the foregoing recitals are true and correct.

Section 2. This declaration is made solely for purpose of establishing compliance with the requirements of Section 1.150-2 of the Treasury Regulations, and does not bind the City to make any expenditure, incur any indebtedness, or proceed with the Project.

Section 3. The City declares its official intent to use proceeds of the Street Improvement Indebtedness to reimburse itself for Street Improvement Expenditures made on or after the date which is no more than 60 days prior to the date of adoption of this Resolution.

Section 4. The City will make a reimbursement allocation, which is a written allocation by the City that evidences the City's use of proceeds of the Street Improvement Indebtedness to reimburse itself for the Street Improvement Expenditures, in accordance with applicable federal law, including Section 1.150-2 of the Treasury Regulations.

Section 5. The City recognizes that exceptions are also available under the Treasury Regulations for certain "preliminary expenditures," costs of issuance, certain de minimis amounts,

expenditures by "small issuers" (based on the year of issuance and not the year of expenditure) and expenditures for construction projects of at least five (5) years.

This Resolution shall take effect upon its adoption by this City Council.

PASSED AND ADOPTED THIS 18TH DAY OF JULY, 2023, BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSENT:

ABSTAIN:

John C. Zaragoza
Mayor

ATTEST:

Rose Chaparro
City Clerk

APPROVED AS TO FORM:

Stephen M. Fischer
City Attorney



CITY COUNCIL AGENDA REPORT

PUBLIC HEARINGS AGENDA ITEM NO. L.1

DATE: July 18, 2023

TO: City Council

FROM: Ashley Golden, Assistant City Manager, (805) 385-7478, ashley.golden@oxnard.org

SUBJECT: Public Meeting and Introduction of an Ordinance to Renew the Oxnard Tourism Marketing District. (10 minutes)

RECOMMENDATION

That the City Council:

1. Conduct the first Public Meeting to allow members of the public to provide comments on the renewal of the Oxnard Tourism Marketing District (OTMD); and
2. Approve the first reading by title only and waive further reading of an ordinance adding Sections 13-3 through 13-13 to Article 1.5 of Chapter 13 of the Oxnard City Code regarding the Oxnard Tourism Marketing District.

Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/5Cm-NEzm_vc

BACKGROUND

The OTMD is a benefit assessment district that provides a revenue source to help fund marketing and sales efforts to promote Oxnard as a tourist, meeting and event destination. This approach has been used successfully in other destination areas throughout the state to improve tourism and drive additional room nights to assessed lodging businesses. On January 15, 2015, pursuant to a request from the Oxnard Convention and Visitors Bureau (OCVB), the City Council adopted a Resolution of intent to establish the OTMD. On February 5, 2019 the Council held a public meeting to take public testimony on the formation of the OTMD and levy of assessments. On March 5, 2019 Council conducted the final hearing and the OTMD was established for a five (5) year term. Oxnard lodging businesses and VO now wish to renew the OTMD for a nine (9) year and three (3) month term.

The renewed OTMD includes all lodging businesses with fifty-five (55) rooms or more located within the boundaries of the City of Oxnard. Lodging business owners decided to pursue renewal of the OTMD in order to continue a revenue source devoted to marketing Oxnard as a tourist, meeting and event destination. If renewed, the OTMD would generate approximately \$1,000,000 on an annual basis for each full fiscal year for promotion of travel and tourism specific to Oxnard. The initial "year" of operations will be a partial year consisting of three (3) months, with an anticipated assessment budget of \$250,000. On June 29, 2023 the City Council adopted a Resolution of Intent initiating the process to renew the Oxnard Tourism Marketing District (OTMD). On June 30, 2023, the City mailed written notice to the owners of all businesses proposed to be within the renewed OTMD. Mailing the notice began the mandatory forty-five (45) day period in which lodging business owners may protest OTMD renewal and serves as the public noticing requirements for the renewal processes.

TOURISM MARKETING DISTRICTS

Tourism Marketing Districts (TMDs) utilize the efficiencies of private sector operation in the market-based promotion of tourism. These special assessment districts allow lodging business owners to organize their efforts to increase tourism. Lodging business owners within the TMD fund the TMD, and those funds are used to provide services that are desired by and benefit the lodging businesses within the TMD.

TMD Benefits:

- Funds cannot be diverted for other government programs;
- They are customized to fit the needs of each destination;
- They allow for a wide range of services; including: destination marketing, tourism promotion, and sales lead generation;
- They are designed, created and governed by those who will pay the assessment; and
- They provide a stable funding source for tourism promotion.

In California, TMDs are primarily formed pursuant to the Property and Business Improvement District Law of 1994 (94 Law). This law allows for the creation of special benefit assessment districts to raise funds within a specific geographic area. The key difference between TMDs and other special benefit assessment districts is that funds raised are returned to the private non-profit corporation governing the TMD.

MANAGEMENT DISTRICT PLAN

The Management District Plan (Attachment 1) includes the proposed boundary of the OTMD, a service plan and budget and a proposed means of governance. The OTMD will include all lodging businesses with fifty-five (55) rooms or more located within the boundaries of the City of Oxnard.

The annual assessment rate is two percent (2.0%) of gross short-term sleeping room rental revenue. Based on the benefit received, assessments will not be collected on: stays of more than thirty (30) consecutive days; stays by an employee or officer of the United States government or an employee or officer of the State government that executes, under penalty of perjury, a form claiming such exemption; and stays by any person who is required to obtain a shelter in a lodging business by reason of circumstances such as fire, flood, or other disaster which makes that person's usual residence uninhabitable and proves that their residence is in an area that has been officially declared a disaster area by local, state, or federal authorities.

The renewed OTMD will have a nine (9) year and three (3) month term, beginning April 1, 2024, or as soon as possible thereafter, and ending June 30, 2033. The assessment will be implemented beginning April 1, 2024, or as soon as possible thereafter. Once per year beginning on the anniversary of OTMD renewal, there is a thirty (30) day period in which lodging business owners paying fifty percent (50%) or more of the assessment may protest and begin proceedings to terminate the OTMD.

The City will be responsible for collecting the assessment on a monthly basis (including any delinquencies, penalties and interest) from each assessed lodging business located in the boundaries of the OTMD. The City shall forward the assessments to Oxnard Convention & Visitors Bureau dba Visit Oxnard (VO), which will have the responsibility of managing OTMD programs as provided in this Management District Plan. The City shall be paid a fee equal to one percent (1%) of the amount of assessment collected to cover its costs of collection and administration.

OTMD RENEWAL PROCESS

June 29, 2023	RESOLUTION OF INTENTION HEARING (COMPLETED) Upon the submission of a written petition, signed by the lodging business owners in the renewed OTMD who will pay more than fifty percent (50%) of the assessments proposed to be levied, the City Council (Council) may initiate proceedings to renew the OTMD by the adoption of a resolution expressing its intention to renew the OTMD.
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Petition Status: Petitions in favor of OTMD renewal were submitted by 7 lodging businesses, which represent 100% of the total OTMD assessment. This majority petition allows the Council to initiate proceedings for OTMD renewal at the June 29, 2023 meeting.

No Later Than:

July 7, 2023	NOTICE (COMPLETED) The 94 Law requires the City to mail written notice to the owners of all businesses proposed to be within the OTMD. Mailing the notice begins a mandatory forty-five (45) day period in which lodging business owners may protest OTMD renewal.
July 18, 2023	PUBLIC MEETING AND INTRODUCTION OF ORDINANCE (CURRENT STEP) Allow public testimony on the renewal of the OTMD and levy of assessments. At the public meeting, the Council would introduce the Ordinance renewing the OTMD and levying the assessment.
Sept. 5 , 2023	FINAL PUBLIC HEARING AND ADOPTION OF THE ORDINANCE If written protests are received from the owners of lodging businesses in the renewed OTMD which will pay more than fifty percent (50%) of the assessments proposed to be levied and such protests are not withdrawn so as to reduce the protests to less than fifty percent (50%), no further proceedings to levy the proposed assessment against such lodging businesses shall be taken for a period of one (1) year from the date of the finding of a majority protest by the Council. If the Council, following the public hearing, decides to establish the renewed OTMD, the Council shall adopt an ordinance of formation renewing the OTMD and levying the assessment. Upon successful passage of the Ordinance, the OTMD shall be renewed, and the Ordinance shall go into effect thirty (30) days after the adoption of the Ordinance.

STRATEGIC PRIORITIES

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

FINANCIAL IMPACT

None immediately. The City will receive a fee of one percent (1%) of the amount collected to cover its costs of administration. Because the OTMD programs are intended to increase visitation to the City, there may be an increase in transient occupancy tax and sales tax collections.

For Finance Use Only: Collections & Payments recorded to General Fund (Org. 101 Obj. 22150 OTMD Liability); 1% Fee recorded to General Fund (Org. 1011601 Obj. 47000 Misc Revenue)

COMMITTEE OUTCOME

This item did not originate in Committee. Per Resolution 15,286 F.2, items that are already approved by Council that have continuing work can go straight to Council. The City Council authorized this TMD in 2019 and the extension does not substantially change the TMD. Additionally, the TMD was heard at the June 29, 2023 Council meeting.

Prepared by: Ashley Golden, Assistant City Manager

ATTACHMENTS

1. Management District Plan
2. Resolution of Intent
3. Ordinance
4. Presentation



OXNARD TOURISM MARKETING DISTRICT MANAGEMENT DISTRICT PLAN

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Prepared by
Civitas



(800)999-7781
www.civitasadvisors.com



I. OVERVIEW

Developed by Oxnard lodging businesses and the Oxnard Convention & Visitors Bureau dba Visit Oxnard (VO), the Oxnard Tourism Marketing District (OTMD) is an assessment district proposed to continue to provide specific benefits to payors, by funding marketing and sales promotion efforts for assessed businesses. This approach has been used successfully in other destination areas throughout the country to provide the benefit of additional room night sales directly to payors. The OTMD was created in 2019 for a five (5) year term. Oxnard lodging businesses and VO now wish to renew the OTMD for a nine (9) year and three (3) month term.

Location: The OTMD includes all lodging businesses with fifty-five (55) rooms or more located within the boundaries of the City of Oxnard, as shown on the map in Section III.

Services: The OTMD is designed to provide specific benefits directly to payors by increasing awareness and demand for room night sales. Sales and marketing programs will increase demand for overnight tourism and market payors as tourist, meeting and event destinations, thereby increasing demand for room night sales.

Budget: The total OTMD annual assessment budget for each full fiscal year (July 1 – June 30) of operations is anticipated to be approximately \$1,000,000. The initial “year” of operations will be a partial year consisting of three (3) months, with an anticipated assessment budget of \$250,000. A similar budget is expected to apply to subsequent years, but this budget is expected to fluctuate as room sales do and as lodging businesses open and close.

Cost: The annual assessment rate is two percent (2.0%) of gross short-term sleeping room rental revenue. Based on the benefit received, assessments will not be collected on: stays of more than thirty (30) consecutive days; stays by an employee or officer of the United States government or an employee or officer of the State government that executes, under penalty of perjury, a form claiming such exemption; and stays by any person who is required to obtain a shelter in a lodging business by reason of circumstances such as fire, flood, or other disaster which makes that person’s usual residence uninhabitable and proves that their residence is in an area that has been officially declared a disaster area by local, State, or federal authorities.

Collection: The City will be responsible for collecting the assessment on a monthly basis (including any delinquencies, penalties and interest) from each lodging business located in the boundaries of the OTMD. The City shall take all reasonable efforts to collect the assessments from each assessed lodging business.

Duration: The OTMD will have a nine (9) year three (3) month life, beginning April 1, 2024 or as soon as possible thereafter, and ending on June 30, 2033. After nine (9) years and three (3) months, the OTMD may be renewed pursuant to the 94 Law if lodging business owners support continuing the OTMD programs.

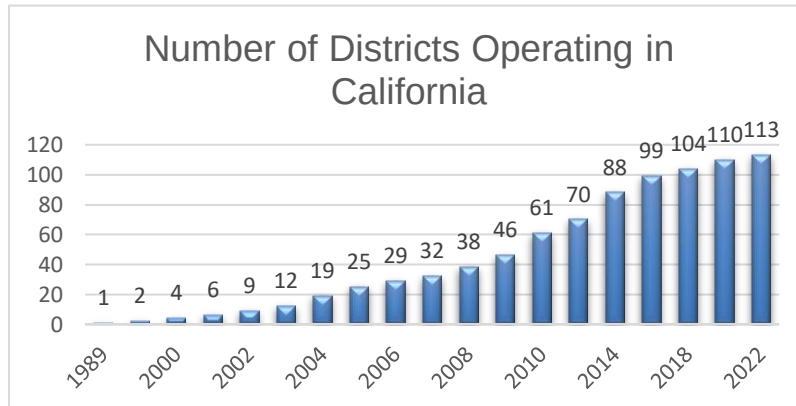
Management: VO shall continue to serve as the OTMD’s Owners’ Association. VO has formed an OTMD Committee which shall continue to be responsible for managing funds and

implementing programs in accordance with this Plan, and must provide annual reports to the City Council.

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II. BACKGROUND

TMDs are an evolution of the traditional Business Improvement District. The first TMD was formed in West Hollywood, California in 1989. Since then, over 100 California destinations have followed suit. In recent years, other states have begun adopting the California model – Massachusetts, Montana, South Dakota, Washington, Colorado, Texas and Louisiana have adopted TMD laws. Several other states are in the process of adopting their own legislation. The cities of Wichita, Kansas and Newark, New Jersey used an existing business improvement district law to form a TMD. Additionally, some cities, like Portland, Oregon and Memphis, Tennessee have utilized their home rule powers to create TMDs without a state law.



California's TMDs collectively raise over \$300 million annually for local destination marketing. With competitors raising their budgets, and increasing rivalry for visitor dollars, it is important that Oxnard lodging businesses continue to invest in stable, commerce-specific marketing programs.

TMDs utilize the efficiencies of private sector operation in the market-based promotion of tourism districts. TMDs allow tourism business owners to organize their efforts to increase commerce. Tourism business owners within the TMD pay an assessment and those funds are used to provide services that increase commerce.

In California, most TMDs are formed pursuant to the Property and Business Improvement District Law of 1994. This law allows for the creation of a benefit assessment district to raise funds within a specific geographic area. *The key difference between TMDs and other benefit assessment districts is that funds raised are returned to the private non-profit corporation governing the district.*

There are many benefits to TMDs:

- Funds must be spent on services and improvements that provide a specific benefit only to those who pay;
- Funds cannot be diverted to general government programs;
- They are customized to fit the needs of payors in each destination;
- They allow for a wide range of services;
- They are ***designed, created and governed by those who will pay*** the assessment; and
- They provide a stable, long-term funding source for tourism promotion.

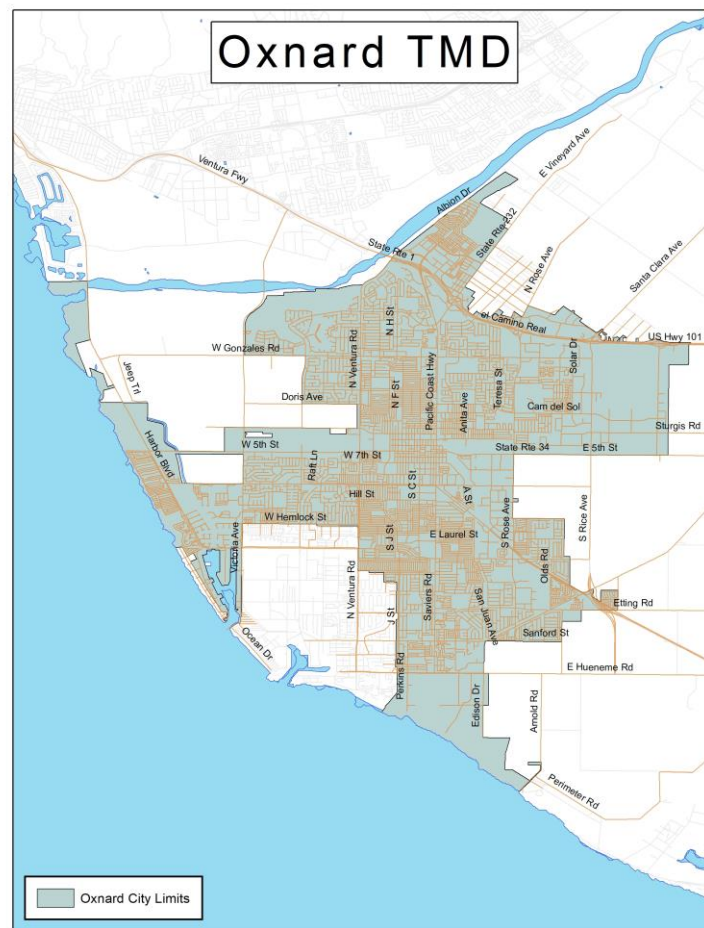
III. BOUNDARY

The OTMD will include all lodging businesses with fifty-five (55) rooms or more located within the boundaries of the City of Oxnard, as shown in the map below.

Lodging business means: any commercial establishment or any portion of any commercial establishment that provides for the occupancy of transients for dwelling, lodging, or sleeping purposes, whether by the date, week or month, and includes any hotel, inn, motel, or commercial establishment of a similar nature.

Lodging business does not include: a lodging business that charges room rents not exceeding maximum rentals of \$10 per day for single and \$15 per day for double occupancy and has a current certificate of eligibility on file with the City; and a lodging business operated by a local government entity or owned and operated by the State. Additionally, lodging business does not include RV Parks; defined as a space that is designed and promoted for the purpose of locating a recreational vehicle, or locating a trailer, tent trailer, pickup camper, or other similar device used for camping.

A complete listing of assessed lodging businesses within the OTMD can be found in Appendix 2.

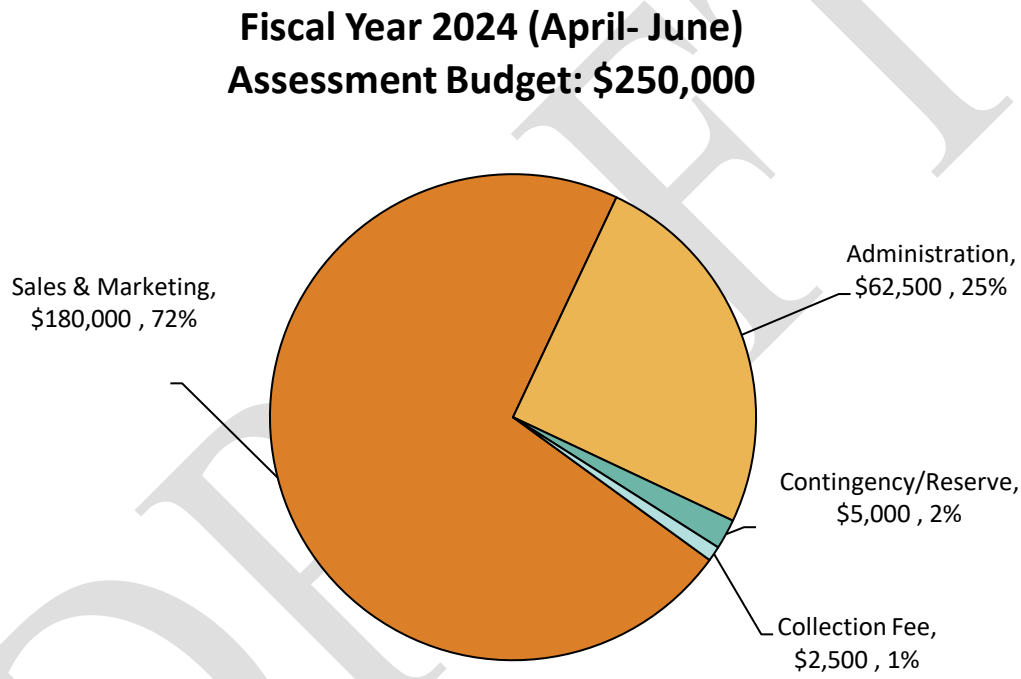


IV. ASSESSMENT BUDGET AND SERVICES

A. Annual Service Plan

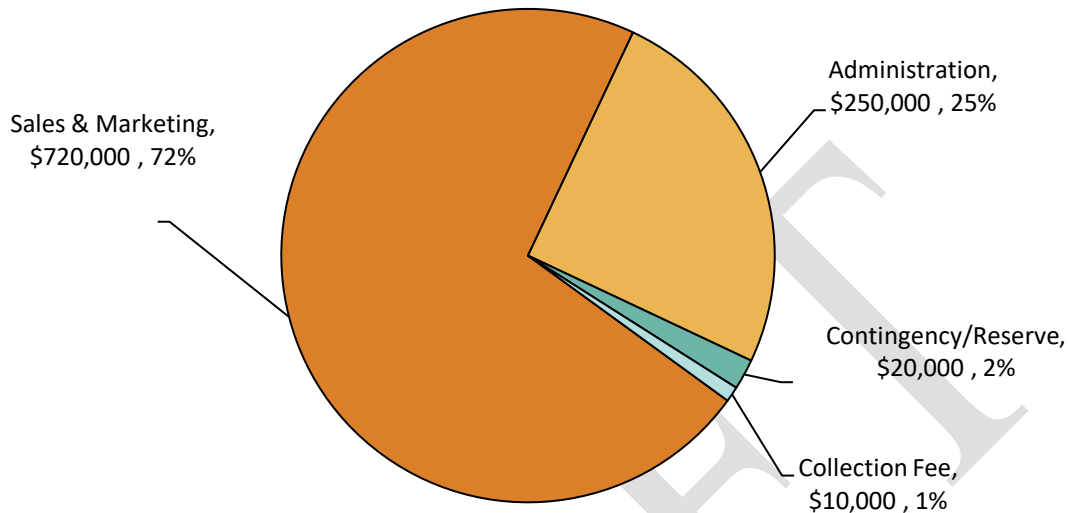
Assessment funds will be spent to provide specific benefits conferred or privileges granted directly to the payors that are not provided to those not charged, and which do not exceed the reasonable cost to the City of conferring the benefits or granting the privileges. The privileges and services provided with the OTMD funds are sales and marketing programs available only to assessed lodging businesses.

A service plan assessment budget has been developed to deliver services that benefit the assessed lodging businesses. A detailed annual assessment budget will be developed and approved by VO. The table below illustrates the annual assessment budget for fiscal year April 1, 2024- June 30, 2024, which covers the initial three (3) month period of the OTMD.



Although actual revenues will fluctuate due to market conditions, the proportional allocations of the budget shall remain the same. The table below illustrates the annual assessment budget for fiscal year two (July 1, 2024- June 30, 2025). However, VO's OTMD Committee shall have the authority to adjust budget allocations between the categories by no more than fifteen percent (15%) of the total budget per year. A description of the proposed improvements and activities for the initial year of operation is below. The same activities are proposed for subsequent years. In the event of a legal challenge against the OTMD, any and all assessment funds may be used for the costs of defending the OTMD.

Fiscal Year 2024/2025 (July-June)
Assessment Budget: \$1,000,000



Each budget category includes all costs related to providing that service. For example, the sales and marketing budget includes the cost of staff time dedicated to overseeing and implementing the sales and marketing program. Staff time dedicated purely to administrative tasks is allocated to the administrative portion of the budget. The costs of an individual staff member may be allocated to multiple budget categories. The staffing levels necessary to provide the services below will be determined by VO's OTMD Committee on an as- needed basis.

Sales and Marketing

A sales and marketing program will continue to promote assessed lodging businesses as tourist, meeting, and event destinations. The sales and marketing program will have a central theme of promoting Oxnard as a desirable place for overnight visits. The program will have the goal of increasing overnight visitation and room night sales at assessed lodging businesses, and may include the following activities:

- Internet marketing efforts to increase awareness and optimize internet presence to drive overnight visitation and room sales to assessed lodging businesses;
- Print ads in magazines and newspapers, television ads, and radio ads targeted at potential visitors to drive overnight visitation and room sales to assessed lodging businesses;
- Attendance of trade shows to promote assessed lodging businesses;
- Sales blitzes for assessed lodging businesses;
- Familiarization tours of assessed lodging businesses;
- Preparation and production of collateral promotional materials such as visitor guides, brochures, flyers and maps featuring assessed lodging businesses;
- Sponsorship of local events and festivals that drive overnight visitations and room sales to assessed lodging businesses;

- Attendance of professional industry conferences and affiliation events to promote assessed lodging businesses;
- Lead generation activities designed to attract tourists and group events to assessed lodging businesses;
- Brand-centric visitor services training program for both public and private sector staff;
- Kiosk improvements including new technology-driven visitor information enhancements;
- Development of Return on Investment (ROI) analysis on the effectiveness of OTMD funds, feasibility studies, and/or economic impact reports to improve effectiveness and increase overnight visitation at assessed lodging businesses;
- Strategic advertising and marketing agency support to promote assessed lodging businesses;
- Director of Sales and General Manager meetings to plan and coordinate tourism promotion efforts for assessed lodging businesses;
- Development and maintenance of a website designed to promote assessed lodging businesses.
- Partnership with both local and state tourism organizations to target key international markets to increase overnight visitation at assessed lodging businesses; and
- Development and implementation of a public relations and communications strategy, inclusive of social media outlets and press release distribution designed to drive overnight visitation at assessed lodging businesses.

Administration and Operations

The administration and operations portion of the budget shall be utilized for administrative staffing costs, office costs, advocacy, and other general administrative costs such as insurance, legal, and accounting fees.

Contingency/Reserve

The budget includes a contingency line item to account for uncollected assessments, if any. If there are contingency funds collected, they may be held in a reserve fund or utilized for other program, administration or renewal costs at the discretion of VO's OTMD Committee. Policies relating to contributions to the reserve fund, the target amount of the reserve fund, and expenditure of monies from the reserve fund shall be set by VO's OTMD Committee. Contingency/reserve funds may be spent on OTMD programs or administrative and renewal costs in such proportions as determined by VO's OTMD Committee. The reserve fund may be used for the costs of renewing the OTMD.

Collection Fee

The City shall continue to retain a fee equal to one percent (1%) of the amount of assessments collected, to cover collection and administration costs.

B. Annual Budget

The total OTMD annual assessment budget for each full fiscal year (July 1 – June 30) of operations is anticipated to be approximately \$1,000,000. The initial “year” of operations will be a partial year consisting of three (3) months, with an anticipated assessment budget of \$250,000. A similar budget is expected to apply to subsequent years, but this budget is expected to fluctuate as room sales do, and as lodging businesses open and close. The total assessment budget for the entire nine (9) year and three (3) month term of the OTMD is anticipated to be approximately \$9,250,000.

C. California Constitutional Compliance

The OTMD assessment is not a property-based assessment subject to the requirements of Proposition 218. Courts have found Proposition 218 limited the term ‘assessments’ to levies on real property.¹ Rather, the OTMD assessment is a business-based assessment, and is subject to Proposition 26. Pursuant to Proposition 26 all levies are a tax unless they fit one of seven exceptions. Two of these exceptions apply to the OTMD, a “specific benefit” and a “specific government service.” Both require that the costs of benefits or services do not exceed the reasonable costs to the City of conferring the benefits or providing the services.

1. Specific Benefit

Proposition 26 requires that assessment funds be expended on, “a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.”² The services in this Plan are designed to provide targeted benefits directly to assessed businesses, and are intended only to provide benefits and services directly to those businesses paying the assessment. These services are tailored not to serve the general public, businesses in general, or parcels of land, but rather to serve the specific businesses within the OTMD. The activities described in this Plan are specifically targeted to increase demand for room night sales for assessed lodging businesses within the boundaries of the OTMD, and are narrowly tailored. OTMD funds will be used exclusively to provide the specific benefit of increased demand for room night sales directly to the assessees. Assessment funds shall not be used to feature non-assessed lodging businesses in OTMD programs, or to directly generate sales for non-assessed businesses. The activities paid for from assessment revenues are business services constituting and providing specific benefits to the assessed businesses. Nothing in this Plan limits the ability of the Owners’ Association to enter into private contracts with non-assessed lodging businesses for the provision of services to those businesses.

The assessment imposed by this OTMD is for a specific benefit conferred directly to the payors that is not provided to those not charged. The specific benefit conferred directly to the payors is an increase in demand for room night sales. The specific benefit of an increase in demand for room night sales for assessed lodging businesses will be provided only to lodging businesses paying the district assessment, with marketing and sales programs promoting lodging businesses paying the OTMD assessment. The marketing and sales programs will be designed to increase room night sales at each assessed lodging businesses. Because they are necessary to provide the marketing and sales programs that specifically benefit the assessed lodging businesses, the administration and contingency services also provide the specific benefit of increased demand for room night sales to the assessed lodging businesses.

Although the OTMD, in providing specific benefits to payors, may produce incidental benefits to non-paying businesses, the incidental benefit does not preclude the services from being considered a specific benefit. The legislature has found that, “A specific benefit is not excluded from classification as a ‘specific benefit’ merely because an indirect benefit to a nonpayor occurs incidentally and without cost to the payor as a consequence of providing the specific benefit to the payor.”³

¹ *Jarvis v. the City of San Diego* 72 Cal App. 4th 230

² Cal. Const. art XIII C § 1(e)(1)

³ Government Code § 53758(a)

2. Specific Government Service

The assessment may also be utilized to provide, “a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product.”⁴ The legislature has recognized that marketing and promotions services like those to be provided by the OTMD are government services within the meaning of Proposition 26⁵. Further, the legislature has determined that “a specific government service is not excluded from classification as a ‘specific government service’ merely because an indirect benefit to a nonpayor occurs incidentally and without cost to the payor as a consequence of providing the specific government service to the payor.”⁶

3. Reasonable Cost

OTMD services will be implemented carefully to ensure they do not exceed the reasonable cost of such services. The full amount assessed will be used to provide the services described herein. Funds will be managed by VO’s OTMD Committee, and reports submitted on an annual basis to the City. Only assessed lodging businesses will be featured in marketing materials, receive sales leads generated from OTMD-funded activities, be featured in advertising campaigns, and benefit from other OTMD-funded services. Non-assessed lodging businesses will not receive these, nor any other, OTMD-funded services and benefits.

The OTMD-funded programs are all targeted directly at and feature only assessed lodging businesses. It is, however, possible that there will be a spill over benefit to non-assessed lodging businesses. If non-assessed lodging businesses receive incremental room nights, that portion of the promotion or program generating those room nights shall be paid with non-OTMD funds. OTMD funds shall only be spent to benefit the assessed lodging businesses, and shall not be spent on that portion of any program which directly generates incidental room nights for non-assessed lodging businesses.

D. Assessment

The annual assessment rate is two percent (2.0%) of gross short-term sleeping room rental revenue. Based on the benefit received, assessments will not be collected on: stays of more than thirty (30) consecutive days; stays by an employee or officer of the United States government or an employee or officer of the State government that executes, under penalty of perjury, a form claiming such exemption; and stays by any person who is required to obtain a shelter in a lodging business by reason of circumstances such as fire, flood, or other disaster which makes that person’s usual residence uninhabitable and proves that their residence is in an area that has been officially declared a disaster area by local, State, or federal authorities.

The assessment was calculated based on the total cost of the activities to be provided for the benefit of the lodging businesses within the OTMD with costs allocated based on the proportional benefit conferred to each lodging business. Activities funded by the OTMD are specifically targeted to increase room nights at assessed lodging businesses. All room night sales do not represent the same benefit to the payors. For example, a higher priced room night is of greater benefit than a lower priced room night because the assessee derives greater revenue. To account for this benefit differential and to make sure the benefits are proportional, an assessment formula based on a percentage of revenue has been selected. The proposed formula accurately reflects greater benefit to assessed lodging businesses with higher priced room nights.

⁴ Cal. Const. art XIII C § 1(e)(2)

⁵ Government Code § 53758(b)

⁶ Government Code § 53758(b)

The term “gross short-term sleeping room rental revenue” as used herein means: the consideration charged, whether or not received, for the occupancy of space in a lodging business valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deductions therefrom whatsoever. Gross short-term sleeping room rental revenue shall not include any federal, state or local taxes collected, including but not limited to transient occupancy taxes.

The assessment is levied upon and a direct obligation of the assessed lodging business. However, the assessed lodging business may, at its discretion, pass the assessment on to transients. The amount of assessment, if passed on to each transient, shall be disclosed in advance and separately stated from the amount of rent charged and any other applicable taxes, and each transient shall receive a receipt for payment from the business. If the OTMD assessment is identified separately it shall be disclosed as the “OTMD Assessment.” As an alternative, the disclosure may include the amount of the OTMD assessment, the amount of the assessment imposed from other local tourism marketing districts, and the amount of the assessment imposed pursuant to the California Tourism Marketing Act, Government Code §13995 et seq. and shall be disclosed as the “Tourism Assessment.” The assessment is imposed solely upon, and is the sole obligation of the assessed lodging business even if it is passed on to transients. The assessment shall not be considered revenue for calculation of transient occupancy taxes.

Bonds shall not be issued.

E. Penalties and Interest

The OTMD shall reimburse the City of Oxnard for any costs associated with collecting unpaid assessments. If sums in excess of the delinquent OTMD assessment are sought to be recovered in the same collection action by the City, the OTMD shall bear its pro rata share of such collection costs. Assessed lodging businesses which are delinquent in paying the assessment shall be responsible for paying:

1. *Original Delinquency:* Any lodging business that fails to remit the assessment within the time required shall pay a penalty of ten percent (10%) of the amount of the assessment in addition to the amount of the assessment.
2. *Continued Delinquency:* Any lodging business that fails to remit the assessment on or before a period of thirty (30) days following the date of which the assessment first became delinquent shall pay a second delinquency penalty of ten percent (10%) of the amount of the assessment.
3. *Fraud:* If the City determines that the nonpayment of the assessment is due to fraud, a penalty of twenty-five percent (25%) of the amount of the assessment shall be added to the amount in addition to any penalties.
4. *Interest:* In addition to the penalties imposed, any lodging business failing to timely remit the assessment shall pay interest at the rate of one-half of one percent (0.5%) per month or fraction thereof on the amount of the assessment, exclusive of penalties, from the date on which the assessment first became delinquent until the assessment is paid.
5. *Penalties and Interest Merged with Assessment:* Every penalty imposed and such interest as accrues shall become a part of the assessment required to be paid.

F. Time and Manner for Collecting Assessments

The OTMD assessment will be implemented beginning on April 1, 2024, and will continue for nine (9) years and three (3) months through June 30, 2033. The City will be responsible for collecting the

assessment on a monthly basis (including any delinquencies, penalties and interest) from each lodging business. The City shall take all reasonable efforts to collect the assessments from each lodging business. The City shall forward the assessments collected to the Owners' Association.

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V. GOVERNANCE

A. Owners' Association

The City Council, through adoption of this Management District Plan, has the right, pursuant to Streets and Highways Code §36651, to identify the body that shall implement the proposed program, which shall be the Owners' Association of the OTMD as defined in Streets and Highways Code §36612. The City Council has determined that VO will continue to serve as the Owners' Association for the OTMD. VO's OTMD Committee shall continue to have full authority to manage matters related to the OTMD, including, but not limited to, management of assessment funds and full decision-making authority regarding OTMD programs in accordance with this Management District Plan.

B. Brown Act and California Public Records Act Compliance

An Owners' Association is a private entity and may not be considered a public entity for any purpose, nor may its board members or staff be considered to be public officials for any purpose. The Owners' Association is, however, subject to government regulations relating to transparency, namely the Ralph M. Brown Act and the California Public Records Act. These regulations are designed to promote public accountability. The Owners' Association acts as a legislative body under the Ralph M. Brown Act (Government Code §54950 et seq.). Thus, meetings of the Board and certain committees must be held in compliance with the public notice and other requirements of the Brown Act. Accordingly, the Owners' Association shall publicly report any action taken and the vote or abstention on that action of each member present for the action. The Owners' Association is also subject to the record keeping and disclosure requirements of the California Public Records Act.

C. Annual Report

VO shall present an annual report at the end of each year of operation to the City Council pursuant to Streets and Highways Code §36650 (see Appendix 1). The annual report shall include:

- Any proposed changes in the boundaries of the improvement district or in any benefit zones or classification of businesses within the district.
- The improvements and activities to be provided for that fiscal year.
- An estimate of the cost of providing the improvements and the activities for that fiscal year.
- The method and basis of levying the assessment in sufficient detail to allow each business owner to estimate the amount of the assessment to be levied against his or her business for that fiscal year.
- The estimated amount of any surplus or deficit revenues to be carried over from a previous fiscal year.
- The estimated amount of any contributions to be made from sources other than assessments levied pursuant to this part.

APPENDIX 1 – LAW

*** THIS DOCUMENT IS CURRENT THROUGH THE 2023 SUPPLEMENT ***
(ALL 2022 LEGISLATION)

STREETS AND HIGHWAYS CODE DIVISION 18. PARKING PART 7. PROPERTY AND BUSINESS IMPROVEMENT DISTRICT LAW OF 1994

CHAPTER 1. General Provisions

ARTICLE 1. Declarations

36600. Citation of part

This part shall be known and may be cited as the “Property and Business Improvement District Law of 1994.”

36601. Legislative findings and declarations; Legislative guidance

The Legislature finds and declares all of the following:

- (a) Businesses located and operating within business districts in some of this state’s communities are economically disadvantaged, are underutilized, and are unable to attract customers due to inadequate facilities, services, and activities in the business districts.
- (b) It is in the public interest to promote the economic revitalization and physical maintenance of business districts in order to create jobs, attract new businesses, and prevent the erosion of the business districts.
- (c) It is of particular local benefit to allow business districts to fund business related improvements, maintenance, and activities through the levy of assessments upon the businesses or real property that receive benefits from those improvements.
- (d) Assessments levied for the purpose of conferring special benefit upon the real property or a specific benefit upon the businesses in a business district are not taxes for the general benefit of a city, even if property, businesses, or persons not assessed receive incidental or collateral effects that benefit them.
- (e) Property and business improvement districts formed throughout this state have conferred special benefits upon properties and businesses within their districts and have made those properties and businesses more useful by providing the following benefits:
 - (1) Crime reduction. A study by the Rand Corporation has confirmed a 12-percent reduction in the incidence of robbery and an 8-percent reduction in the total incidence of violent crimes within the 30 districts studied.
 - (2) Job creation.
 - (3) Business attraction.
 - (4) Business retention.
 - (5) Economic growth.
 - (6) New investments.
- (f) With the dissolution of redevelopment agencies throughout the state, property and business improvement districts have become even more important tools with which communities can combat blight, promote economic opportunities, and create a clean and safe environment.
- (g) Since the enactment of this act, the people of California have adopted Proposition 218, which added Article XIII D to the Constitution in order to place certain requirements and restrictions on the formation of, and activities, expenditures, and assessments by property-based districts. Article XIII D of the Constitution provides that property-based districts may only levy assessments for special benefits.
- (h) The act amending this section is intended to provide the Legislature’s guidance with regard to this act, its interaction with the provisions of Article XIII D of the Constitution, and the determination of special benefits in property-based districts.
 - (1) The lack of legislative guidance has resulted in uncertainty and inconsistent application of this act, which discourages the use of assessments to fund needed improvements, maintenance, and activities in property-based districts, contributing to blight and other underutilization of property.

(2) Activities undertaken for the purpose of conferring special benefits upon property to be assessed inherently produce incidental or collateral effects that benefit property or persons not assessed. Therefore, for special benefits to exist as a separate and distinct category from general benefits, the incidental or collateral effects of those special benefits are inherently part of those special benefits. The mere fact that special benefits produce incidental or collateral effects that benefit property or persons not assessed does not convert any portion of those special benefits or their incidental or collateral effects into general benefits.

(3) It is of the utmost importance that property-based districts created under this act have clarity regarding restrictions on assessments they may levy and the proper determination of special benefits. Legislative clarity with regard to this act will provide districts with clear instructions and courts with legislative intent regarding restrictions on property-based assessments, and the manner in which special benefits should be determined.

36602. Purpose of part

The purpose of this part is to supplement previously enacted provisions of law that authorize cities to levy assessments within property and business improvement districts, to ensure that those assessments conform to all constitutional requirements and are determined and assessed in accordance with the guidance set forth in this act. This part does not affect or limit any other provisions of law authorizing or providing for the furnishing of improvements or activities or the raising of revenue for these purposes.

36603. Preemption of authority or charter city to adopt ordinances levying assessments

Nothing in this part is intended to preempt the authority of a charter city to adopt ordinances providing for a different method of levying assessments for similar or additional purposes from those set forth in this part. A property and business improvement district created pursuant to this part is expressly exempt from the provisions of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 (Division 4 (commencing with Section 2800)).

36603.5. Part prevails over conflicting provisions

Any provision of this part that conflicts with any other provision of law shall prevail over the other provision of law, as to districts created under this part.

36604. Severability

This part is intended to be construed liberally and, if any provision is held invalid, the remaining provisions shall remain in full force and effect. Assessments levied under this part are not special taxes.

ARTICLE 2. Definitions

36606. “Activities”

“Activities” means, but is not limited to, all of the following that benefit businesses or real property in the district:

- (a) Promotion of public events.
- (b) Furnishing of music in any public place.
- (c) Promotion of tourism within the district.
- (d) Marketing and economic development, including retail retention and recruitment.
- (e) Providing security, sanitation, graffiti removal, street and sidewalk cleaning, and other municipal services supplemental to those normally provided by the municipality.
- (f) Other services provided for the purpose of conferring special benefit upon assessed real property or specific benefits upon assessed businesses located in the district.

36606.5. “Assessment”

“Assessment” means a levy for the purpose of acquiring, constructing, installing, or maintaining improvements and providing activities that will provide certain benefits to properties or businesses located within a property and business improvement district.

36607. “Business”

“Business” means all types of businesses and includes financial institutions and professions.

36608. “City”

“City” means a city, county, city and county, or an agency or entity created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, the public member agencies of which includes only cities, counties, or a city and county, or the State of California.

36609. “City council”

“City council” means the city council of a city or the board of supervisors of a county, or the agency, commission, or board created pursuant to a joint powers agreement and which is a city within the meaning of this part.

36609.4. “Clerk”

“Clerk” means the clerk of the legislative body.

36609.5. “General benefit”

“General benefit” means, for purposes of a property-based district, any benefit that is not a “special benefit” as defined in Section 36615.5.

36610. “Improvement”

“Improvement” means the acquisition, construction, installation, or maintenance of any tangible property with an estimated useful life of five years or more including, but not limited to, the following:

- (a) Parking facilities.
- (b) Benches, booths, kiosks, display cases, pedestrian shelters and signs.
- (c) Trash receptacles and public restrooms.
- (d) Lighting and heating facilities.
- (e) Decorations.
- (f) Parks.
- (g) Fountains.
- (h) Planting areas.
- (i) Closing, opening, widening, or narrowing of existing streets.
- (j) Facilities or equipment, or both, to enhance security of persons and property within the district.
- (k) Ramps, sidewalks, plazas, and pedestrian malls.
- (l) Rehabilitation or removal of existing structures.

36611. “Management district plan”; “Plan”

“Management district plan” or “plan” means a proposal as defined in Section 36622.

36612. “Owners’ association”

“Owners’ association” means a private nonprofit entity that is under contract with a city to administer or implement improvements, maintenance, and activities specified in the management district plan. An owners’ association may be an existing nonprofit entity or a newly formed nonprofit entity. An owners’ association is a private entity and may not be considered a public entity for any purpose, nor may its board members or staff be considered to be public officials for any purpose. Notwithstanding this section, an owners’ association shall comply with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code), at all times when matters within the subject matter of the district are heard, discussed, or deliberated, and with the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), for all records relating to activities of the district.

36614. “Property”

“Property” means real property situated within a district.

36614.5. “Property and business improvement district”; “District”

“Property and business improvement district,” or “district,” means a property and business improvement district established pursuant to this part.

36614.6. “Property-based assessment”

“Property-based assessment” means any assessment made pursuant to this part upon real property.

36614.7. “Property-based district”

“Property-based district” means any district in which a city levies a property-based assessment.

36615. “Property owner”; “Business owner”; “Owner”

“Property owner” means any person shown as the owner of land on the last equalized assessment roll or otherwise known to be the owner of land by the city council. “Business owner” means any person recognized by the city as the owner of the business. “Owner” means either a business owner or a property owner. The city council has no obligation to obtain other information as to the ownership of land or businesses, and its determination of ownership shall be final and conclusive for the purposes of this part. Wherever this part requires the signature of the property owner, the signature of the authorized agent of the property owner shall be sufficient. Wherever this part requires the signature of the business owner, the signature of the authorized agent of the business owner shall be sufficient.

36615.5. “Special benefit”

(a) “Special benefit” means, for purposes of a property-based district, a particular and distinct benefit over and above general benefits conferred on real property located in a district or to the public at large. Special benefit includes incidental or collateral effects that arise from the improvements, maintenance, or activities of property-based districts even if those incidental or collateral effects benefit property or persons not assessed. Special benefit excludes general enhancement of property value.

(b) “Special benefit” also includes, for purposes of a property-based district, a particular and distinct benefit provided directly to each assessed parcel within the district. Merely because parcels throughout an assessment district share the same special benefits does not make the benefits general.

36616. “Tenant”

“Tenant” means an occupant pursuant to a lease of commercial space or a dwelling unit, other than an owner.

ARTICLE 3. Prior Law

36617. Alternate method of financing certain improvements and activities; Effect on other provisions

This part provides an alternative method of financing certain improvements and activities. The provisions of this part shall not affect or limit any other provisions of law authorizing or providing for the furnishing of improvements or activities or the raising of revenue for these purposes. Every improvement area established pursuant to the Parking and Business Improvement Area Law of 1989 (Part 6 (commencing with Section 36500) of this division) is valid and effective and is unaffected by this part.

CHAPTER 2. Establishment

36620. Establishment of property and business improvement district

A property and business improvement district may be established as provided in this chapter.

36620.5. Requirement of consent of city council

A county may not form a district within the territorial jurisdiction of a city without the consent of the city council of that city. A city may not form a district within the unincorporated territory of a county without the consent of the board of supervisors of that county. A city may not form a district within the territorial jurisdiction of another city without the consent of the city council of the other city.

36621. Initiation of proceedings; Petition of property or business owners in proposed district

- (a) Upon the submission of a written petition, signed by the property or business owners in the proposed district who will pay more than 50 percent of the assessments proposed to be levied, the city council may initiate proceedings to form a district by the adoption of a resolution expressing its intention to form a district. The amount of assessment attributable to property or a business owned by the same property or business owner that is in excess of 40 percent of the amount of all assessments proposed to be levied, shall not be included in determining whether the petition is signed by property or business owners who will pay more than 50 percent of the total amount of assessments proposed to be levied.
- (b) The petition of property or business owners required under subdivision (a) shall include a summary of the management district plan. That summary shall include all of the following:
 - (1) A map showing the boundaries of the district.
 - (2) Information specifying where the complete management district plan can be obtained.
 - (3) Information specifying that the complete management district plan shall be furnished upon request.
- (c) The resolution of intention described in subdivision (a) shall contain all of the following:
 - (1) A brief description of the proposed improvements, maintenance, and activities, the amount of the proposed assessment, a statement as to whether the assessment will be levied on property or businesses within the district, a statement as to whether bonds will be issued, and a description of the exterior boundaries of the proposed district, which may be made by reference to any plan or map that is on file with the clerk. The descriptions and statements do not need to be detailed and shall be sufficient if they enable an owner to generally identify the nature and extent of the improvements, maintenance, and activities, and the location and extent of the proposed district.
 - (2) A time and place for a public hearing on the establishment of the property and business improvement district and the levy of assessments, which shall be consistent with the requirements of Section 36623.

36622. Contents of management district plan

The management district plan shall include, but is not limited to, all of the following:

- (a) If the assessment will be levied on property, a map of the district in sufficient detail to locate each parcel of property and, if businesses are to be assessed, each business within the district. If the assessment will be levied on businesses, a map that identifies the district boundaries in sufficient detail to allow a business owner to reasonably determine whether a business is located within the district boundaries. If the assessment will be levied on property and businesses, a map of the district in sufficient detail to locate each parcel of property and to allow a business owner to reasonably determine whether a business is located within the district boundaries.
- (b) The name of the proposed district.
- (c) A description of the boundaries of the district, including the boundaries of benefit zones, proposed for establishment or extension in a manner sufficient to identify the affected property and businesses included, which may be made by reference to any plan or map that is on file with the clerk. The boundaries of a proposed property assessment district shall not overlap with the boundaries of another existing property assessment district created pursuant to this part. This part does not prohibit the boundaries of a district created pursuant to this part to overlap with other assessment districts established pursuant to other provisions of law, including, but not limited to, the Parking and Business Improvement Area Law of 1989 (Part 6 (commencing with Section 36500)). This part does not prohibit the boundaries of a business assessment district created pursuant to this part to overlap with another business assessment district created pursuant to this part. This

part does not prohibit the boundaries of a business assessment district created pursuant to this part to overlap with a property assessment district created pursuant to this part.

(d) The improvements, maintenance, and activities proposed for each year of operation of the district and the estimated cost thereof. If the improvements, maintenance, and activities proposed for each year of operation are the same, a description of the first year's proposed improvements, maintenance, and activities and a statement that the same improvements, maintenance, and activities are proposed for subsequent years shall satisfy the requirements of this subdivision.

(e) The total annual amount proposed to be expended for improvements, maintenance, or activities, and debt service in each year of operation of the district. If the assessment is levied on businesses, this amount may be estimated based upon the assessment rate. If the total annual amount proposed to be expended in each year of operation of the district is not significantly different, the amount proposed to be expended in the initial year and a statement that a similar amount applies to subsequent years shall satisfy the requirements of this subdivision.

(f) The proposed source or sources of financing, including the proposed method and basis of levying the assessment in sufficient detail to allow each property or business owner to calculate the amount of the assessment to be levied against their property or business. The plan also shall state whether bonds will be issued to finance improvements.

(g) The time and manner of collecting the assessments.

(h) The specific number of years in which assessments will be levied. In a new district, the maximum number of years shall be five. Upon renewal, a district shall have a term not to exceed 10 years. Notwithstanding these limitations, a district created pursuant to this part to finance capital improvements with bonds may levy assessments until the maximum maturity of the bonds. The management district plan may set forth specific increases in assessments for each year of operation of the district.

(i) The proposed time for implementation and completion of the management district plan.

(j) Any proposed rules and regulations to be applicable to the district.

(k)

(1) A list of the properties or businesses to be assessed, including the assessor's parcel numbers for properties to be assessed, and a statement of the method or methods by which the expenses of a district will be imposed upon benefited real property or businesses, in proportion to the benefit received by the property or business, to defray the cost thereof.

(2) In a property-based district, the proportionate special benefit derived by each identified parcel shall be determined exclusively in relationship to the entirety of the capital cost of a public improvement, the maintenance and operation expenses of a public improvement, or the cost of the activities. An assessment shall not be imposed on any parcel that exceeds the reasonable cost of the proportional special benefit conferred on that parcel. Only special benefits are assessable, and a property-based district shall separate the general benefits, if any, from the special benefits conferred on a parcel. Parcels within a property-based district that are owned or used by any city, public agency, the State of California, or the United States shall not be exempt from assessment unless the governmental entity can demonstrate by clear and convincing evidence that those publicly owned parcels in fact receive no special benefit. The value of any incidental, secondary, or collateral effects that arise from the improvements, maintenance, or activities of a property-based district and that benefit property or persons not assessed shall not be deducted from the entirety of the cost of any special benefit or affect the proportionate special benefit derived by each identified parcel.

(3) In a property-based district, properties throughout the district may share the same special benefits. In a district with boundaries that define which parcels are to receive improvements, maintenance, or activities over and above those services provided by the city, the improvements, maintenance, or activities themselves may constitute a special benefit. The city may impose assessments that are less than the proportional special benefit conferred, but shall not impose assessments that exceed the reasonable costs of the proportional special benefit conferred. Because one or more parcels pay less than the special benefit conferred does not necessarily mean that other parcels are assessed more than the reasonable cost of their special benefit.

(l) In a property-based district, a detailed engineer's report prepared by a registered professional engineer certified by the State of California supporting all assessments contemplated by the management district plan.

(m) Any other item or matter required to be incorporated therein by the city council.

36623. Procedure to levy assessment

- (a) If a city council proposes to levy a new or increased property assessment, the notice and protest and hearing procedure shall comply with Section 53753 of the Government Code.
- (b) If a city council proposes to levy a new or increased business assessment, the notice and protest and hearing procedure shall comply with Section 54954.6 of the Government Code, except that notice shall be mailed to the owners of the businesses proposed to be assessed. A protest may be made orally or in writing by any interested person. Every written protest shall be filed with the clerk at or before the time fixed for the public hearing. The city council may waive any irregularity in the form or content of any written protest. A written protest may be withdrawn in writing at any time before the conclusion of the public hearing. Each written protest shall contain a description of the business in which the person subscribing the protest is interested sufficient to identify the business and, if a person subscribing is not shown on the official records of the city as the owner of the business, the protest shall contain or be accompanied by written evidence that the person subscribing is the owner of the business or the authorized representative. A written protest that does not comply with this section shall not be counted in determining a majority protest. If written protests are received from the owners or authorized representatives of businesses in the proposed district that will pay 50 percent or more of the assessments proposed to be levied and protests are not withdrawn so as to reduce the protests to less than 50 percent, no further proceedings to levy the proposed assessment against such businesses, as contained in the resolution of intention, shall be taken for a period of one year from the date of the finding of a majority protest by the city council.
- (c) If a city council proposes to conduct a single proceeding to levy both a new or increased property assessment and a new or increased business assessment, the notice and protest and hearing procedure for the property assessment shall comply with subdivision (a), and the notice and protest and hearing procedure for the business assessment shall comply with subdivision (b). If a majority protest is received from either the property or business owners, that respective portion of the assessment shall not be levied. The remaining portion of the assessment may be levied unless the improvement or other special benefit was proposed to be funded by assessing both property and business owners.

36624. Changes to proposed assessments

At the conclusion of the public hearing to establish the district, the city council may adopt, revise, change, reduce, or modify the proposed assessment or the type or types of improvements, maintenance, and activities to be funded with the revenues from the assessments. Proposed assessments may only be revised by reducing any or all of them. At the public hearing, the city council may only make changes in, to, or from the boundaries of the proposed property and business improvement district that will exclude territory that will not benefit from the proposed improvements, maintenance, and activities. Any modifications, revisions, reductions, or changes to the proposed assessment district shall be reflected in the notice and map recorded pursuant to Section 36627.

36625. Resolution of formation

- (a) If the city council, following the public hearing, decides to establish a proposed property and business improvement district, the city council shall adopt a resolution of formation that shall include, but is not limited to, all of the following:
- (1) A brief description of the proposed improvements, maintenance, and activities, the amount of the proposed assessment, a statement as to whether the assessment will be levied on property, businesses, or both within the district, a statement on whether bonds will be issued, and a description of the exterior boundaries of the proposed district, which may be made by reference to any plan or map that is on file with the clerk. The descriptions and statements need not be detailed and shall be sufficient if they enable an owner to generally identify the nature and extent of the improvements, maintenance, and activities and the location and extent of the proposed district.
 - (2) The number, date of adoption, and title of the resolution of intention.
 - (3) The time and place where the public hearing was held concerning the establishment of the district.
 - (4) A determination regarding any protests received. The city shall not establish the district or levy assessments if a majority protest was received.
 - (5) A statement that the properties, businesses, or properties and businesses in the district established by the resolution shall be subject to any amendments to this part.
 - (6) A statement that the improvements, maintenance, and activities to be conferred on businesses and properties in the district will be funded by the levy of the assessments. The revenue from the

levy of assessments within a district shall not be used to provide improvements, maintenance, or activities outside the district or for any purpose other than the purposes specified in the resolution of intention, as modified by the city council at the hearing concerning establishment of the district. Notwithstanding the foregoing, improvements and activities that must be provided outside the district boundaries to create a special or specific benefit to the assessed parcels or businesses may be provided, but shall be limited to marketing or signage pointing to the district.

(7) A finding that the property or businesses within the area of the property and business improvement district will be benefited by the improvements, maintenance, and activities funded by the proposed assessments, and, for a property-based district, that property within the district will receive a special benefit.

(8) In a property-based district, the total amount of all special benefits to be conferred on the properties within the property-based district.

(b) The adoption of the resolution of formation and, if required, recordation of the notice and map pursuant to Section 36627 shall constitute the levy of an assessment in each of the fiscal years referred to in the management district plan.

36627. Notice and assessment diagram

Following adoption of the resolution establishing district assessments on properties pursuant to Section 36625, the clerk shall record a notice and an assessment diagram pursuant to Section 3114. No other provision of Division 4.5 (commencing with Section 3100) applies to an assessment district created pursuant to this part.

36628. Establishment of separate benefit zones within district; Categories of businesses

The city council may establish one or more separate benefit zones within the district based upon the degree of benefit derived from the improvements or activities to be provided within the benefit zone and may impose a different assessment within each benefit zone. If the assessment is to be levied on businesses, the city council may also define categories of businesses based upon the degree of benefit that each will derive from the improvements or activities to be provided within the district and may impose a different assessment or rate of assessment on each category of business, or on each category of business within each zone.

36628.5. Assessments on businesses or property owners

The city council may levy assessments on businesses or on property owners, or a combination of the two, pursuant to this part. The city council shall structure the assessments in whatever manner it determines corresponds with the distribution of benefits from the proposed improvements, maintenance, and activities, provided that any property-based assessment conforms with the requirements set forth in paragraph (2) of subdivision (k) of Section 36622.

36629. Provisions and procedures applicable to benefit zones and business categories

All provisions of this part applicable to the establishment, modification, or disestablishment of a property and business improvement district apply to the establishment, modification, or disestablishment of benefit zones or categories of business. The city council shall, to establish, modify, or disestablish a benefit zone or category of business, follow the procedure to establish, modify, or disestablish a property and business improvement district.

36630. Expiration of district; Creation of new district

If a property and business improvement district expires due to the time limit set pursuant to subdivision (h) of Section 36622, a new management district plan may be created and the district may be renewed pursuant to this part.

CHAPTER 3. Assessments

36631. Time and manner of collection of assessments; Delinquent payments

The collection of the assessments levied pursuant to this part shall be made at the time and in the manner set forth by the city council in the resolution levying the assessment. Assessments levied on real property may be collected at the

same time and in the same manner as for the ad valorem property tax, and may provide for the same lien priority and penalties for delinquent payment. All delinquent payments for assessments levied pursuant to this part may be charged interest and penalties.

36632. Assessments to be based on estimated benefit; Classification of real property and businesses; Exclusion of residential and agricultural property

(a) The assessments levied on real property pursuant to this part shall be levied on the basis of the estimated benefit to the real property within the property and business improvement district. The city council may classify properties for purposes of determining the benefit to property of the improvements and activities provided pursuant to this part.

(b) Assessments levied on businesses pursuant to this part shall be levied on the basis of the estimated benefit to the businesses within the property and business improvement district. The city council may classify businesses for purposes of determining the benefit to the businesses of the improvements and activities provided pursuant to this part.

(c) Properties zoned solely for residential use, or that are zoned for agricultural use, are conclusively presumed not to benefit from the improvements and service funded through these assessments, and shall not be subject to any assessment pursuant to this part.

36633. Time for contesting validity of assessment

The validity of an assessment levied under this part shall not be contested in an action or proceeding unless the action or proceeding is commenced within 30 days after the resolution levying the assessment is adopted pursuant to Section 36625. An appeal from a final judgment in an action or proceeding shall be perfected within 30 days after the entry of judgment.

36634. Service contracts authorized to establish levels of city services

The city council may execute baseline service contracts that would establish levels of city services that would continue after a property and business improvement district has been formed.

36635. Request to modify management district plan

The owners' association may, at any time, request that the city council modify the management district plan. Any modification of the management district plan shall be made pursuant to this chapter.

36636. Modification of plan by resolution after public hearing; Adoption of resolution of intention

(a) Upon the written request of the owners' association, the city council may modify the management district plan after conducting one public hearing on the proposed modifications. The city council may modify the improvements and activities to be funded with the revenue derived from the levy of the assessments by adopting a resolution determining to make the modifications after holding a public hearing on the proposed modifications. If the modification includes the levy of a new or increased assessment, the city council shall comply with Section 36623. Notice of all other public hearings pursuant to this section shall comply with both of the following:

(1) The resolution of intention shall be published in a newspaper of general circulation in the city once at least seven days before the public hearing.

(2) A complete copy of the resolution of intention shall be mailed by first class mail, at least 10 days before the public hearing, to each business owner or property owner affected by the proposed modification.

(b) The city council shall adopt a resolution of intention which states the proposed modification prior to the public hearing required by this section. The public hearing shall be held not more than 90 days after the adoption of the resolution of intention.

36637. Reflection of modification in notices recorded and maps

Any subsequent modification of the resolution shall be reflected in subsequent notices and maps recorded pursuant to Division 4.5 (commencing with Section 3100), in a manner consistent with the provisions of Section 36627.

CHAPTER 3.5. Financing

36640. Bonds authorized; Procedure; Restriction on reduction or termination of assessments

(a) The city council may, by resolution, determine and declare that bonds shall be issued to finance the estimated cost of some or all of the proposed improvements described in the resolution of formation adopted pursuant to Section 36625, if the resolution of formation adopted pursuant to that section provides for the issuance of bonds, under the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500)) or in conjunction with Marks-Roos Local Bond Pooling Act of 1985 (Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code). Either act, as the case may be, shall govern the proceedings relating to the issuance of bonds, although proceedings under the Bond Act of 1915 may be modified by the city council as necessary to accommodate assessments levied upon business pursuant to this part.

(b) The resolution adopted pursuant to subdivision (a) shall generally describe the proposed improvements specified in the resolution of formation adopted pursuant to Section 36625, set forth the estimated cost of those improvements, specify the number of annual installments and the fiscal years during which they are to be collected. The amount of debt service to retire the bonds shall not exceed the amount of revenue estimated to be raised from assessments over 30 years.

(c) Notwithstanding any other provision of this part, assessments levied to pay the principal and interest on any bond issued pursuant to this section shall not be reduced or terminated if doing so would interfere with the timely retirement of the debt.

CHAPTER 4. Governance

36650. Report by owners' association; Approval or modification by city council

(a) The owners' association shall cause to be prepared a report for each fiscal year, except the first year, for which assessments are to be levied and collected to pay the costs of the improvements, maintenance, and activities described in the report. The owners' association's first report shall be due after the first year of operation of the district. The report may propose changes, including, but not limited to, the boundaries of the property and business improvement district or any benefit zones within the district, the basis and method of levying the assessments, and any changes in the classification of property, including any categories of business, if a classification is used.

(b) The report shall be filed with the clerk and shall refer to the property and business improvement district by name, specify the fiscal year to which the report applies, and, with respect to that fiscal year, shall contain all of the following information:

(1) Any proposed changes in the boundaries of the property and business improvement district or in any benefit zones or classification of property or businesses within the district.

(2) The improvements, maintenance, and activities to be provided for that fiscal year.

(3) An estimate of the cost of providing the improvements, maintenance, and activities for that fiscal year.

(4) The method and basis of levying the assessment in sufficient detail to allow each real property or business owner, as appropriate, to estimate the amount of the assessment to be levied against his or her property or business for that fiscal year.

(5) The estimated amount of any surplus or deficit revenues to be carried over from a previous fiscal year.

(6) The estimated amount of any contributions to be made from sources other than assessments levied pursuant to this part.

(c) The city council may approve the report as filed by the owners' association or may modify any particular contained in the report and approve it as modified. Any modification shall be made pursuant to Sections 36635 and 36636.

The city council shall not approve a change in the basis and method of levying assessments that would impair an authorized or executed contract to be paid from the revenues derived from the levy of assessments, including any commitment to pay principal and interest on any bonds issued on behalf of the district.

36651. Designation of owners' association to provide improvements, maintenance, and activities

The management district plan may, but is not required to, state that an owners' association will provide the improvements, maintenance, and activities described in the management district plan. If the management district plan designates an owners' association, the city shall contract with the designated nonprofit corporation to provide services.

CHAPTER 5. Renewal

36660. Renewal of district; Transfer or refund of remaining revenues; District term limit

- (a) Any district previously established whose term has expired, or will expire, may be renewed by following the procedures for establishment as provided in this chapter.
- (b) Upon renewal, any remaining revenues derived from the levy of assessments, or any revenues derived from the sale of assets acquired with the revenues, shall be transferred to the renewed district. If the renewed district includes additional parcels or businesses not included in the prior district, the remaining revenues shall be spent to benefit only the parcels or businesses in the prior district. If the renewed district does not include parcels or businesses included in the prior district, the remaining revenues attributable to these parcels shall be refunded to the owners of these parcels or businesses.
- (c) Upon renewal, a district shall have a term not to exceed 10 years, or, if the district is authorized to issue bonds, until the maximum maturity of those bonds. There is no requirement that the boundaries, assessments, improvements, or activities of a renewed district be the same as the original or prior district.

CHAPTER 6. Disestablishment

36670. Circumstances permitting disestablishment of district; Procedure

- (a) Any district established or extended pursuant to the provisions of this part, where there is no indebtedness, outstanding and unpaid, incurred to accomplish any of the purposes of the district, may be disestablished by resolution by the city council in either of the following circumstances:
 - (1) If the city council finds there has been misappropriation of funds, malfeasance, or a violation of law in connection with the management of the district, it shall notice a hearing on disestablishment.
 - (2) During the operation of the district, there shall be a 30-day period each year in which assesseses may request disestablishment of the district. The first such period shall begin one year after the date of establishment of the district and shall continue for 30 days. The next such 30-day period shall begin two years after the date of the establishment of the district. Each successive year of operation of the district shall have such a 30-day period. Upon the written petition of the owners or authorized representatives of real property or the owners or authorized representatives of businesses in the district who pay 50 percent or more of the assessments levied, the city council shall pass a resolution of intention to disestablish the district. The city council shall notice a hearing on disestablishment.
- (b) The city council shall adopt a resolution of intention to disestablish the district prior to the public hearing required by this section. The resolution shall state the reason for the disestablishment, shall state the time and place of the public hearing, and shall contain a proposal to dispose of any assets acquired with the revenues of the assessments levied within the property and business improvement district. The notice of the hearing on disestablishment required by this section shall be given by mail to the property owner of each parcel or to the owner of each business subject to assessment in the district, as appropriate. The city shall conduct the public hearing not less than 30 days after mailing the notice to the property or business owners. The public hearing shall be held not more than 60 days after the adoption of the resolution of intention.

36671. Refund of remaining revenues upon disestablishment or expiration without renewal of district; Calculation of refund; Use of outstanding revenue collected after disestablishment of district

- (a) Upon the disestablishment or expiration without renewal of a district, any remaining revenues, after all outstanding debts are paid, derived from the levy of assessments, or derived from the sale of assets acquired

with the revenues, or from bond reserve or construction funds, shall be refunded to the owners of the property or businesses then located and operating within the district in which assessments were levied by applying the same method and basis that was used to calculate the assessments levied in the fiscal year in which the district is disestablished or expires. All outstanding assessment revenue collected after disestablishment shall be spent on improvements and activities specified in the management district plan.

(b) If the disestablishment occurs before an assessment is levied for the fiscal year, the method and basis that was used to calculate the assessments levied in the immediate prior fiscal year shall be used to calculate the amount of any refund.

DRAFT

APPENDIX 2 – ASSESSED BUSINESSES

Name	Address	City, State ZIP
Best Western Oxnard Inn	1156 S. Oxnard Blvd.	Oxnard, CA 93030
Courtyard by Marriott Oxnard	600 E. Esplanade Dr.	Oxnard, CA 93036
Hampton Inn Channel Islands Harbor	3231 Peninsula Rd.	Oxnard, CA 93035
Hilton Garden Inn Oxnard	2000 Solar Dr.	Oxnard, CA 93036
Homewood Suites	1950 Solar Dr.	Oxnard, CA 93036
Residence Inn by Marriott Oxnard at River Ridge	2101 West Vineyard Ave.	Oxnard, CA 93036
Zachari Dunes on Mandalay Beach Resort	2101 Mandalay Beach Rd.	Oxnard, CA 93035

RESOLUTION NO. – 15,722

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD
DECLARING ITS INTENTION TO RENEW THE OXNARD TOURISM
MARKETING DISTRICT (OTMD) AND FIXING THE TIME AND PLACE OF
A PUBLIC MEETING AND A PUBLIC HEARING THEREON AND GIVING
NOTICE THEREOF**

WHEREAS, the City of Oxnard (City) created the OTMD on March 5, 2019 by Resolution No.15. 200; and

WHEREAS, the OTMD was created for a five (5) year term which ends on March 31, 2024, and

WHEREAS, the Property and Business Improvement Law of 1994, Streets and Highways Code § 36600 et seq., authorizes the City to renew business improvement districts for the purposes of promoting tourism; and

WHEREAS, the Oxnard Convention & Visitors Bureau dba Visit Oxnard (VO), lodging business owners, and representatives from the City of Oxnard have met to consider the renewal of the OTMD; and

WHEREAS, VO has drafted a Management District Plan (Plan) which sets forth the proposed boundary of the OTMD, a service plan and budget, and a proposed means of governance; and

WHEREAS, lodging businesses who will pay more than fifty percent (50%) of the assessment under the OTMD have petitioned the City Council to renew the OTMD.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL THAT:

1. The recitals set forth herein are true and correct.
2. The City Council finds that lodging businesses that will pay more than fifty percent (50%) of the assessment proposed in the Plan have signed and submitted petitions in support of the renewal of the OTMD. The City Council accepts the petitions and adopts this Resolution of Intention to renew the OTMD and to levy an assessment on certain lodging businesses within the OTMD boundaries in accordance with the Property and Business Improvement District Law of 1994.
3. The City Council finds that the Plan satisfies all requirements of Streets and Highways Code § 36622.
4. The City Council declares its intention to renew the OTMD and to levy and collect assessments on certain lodging businesses within the OTMD boundaries pursuant to the Property and Business Improvement District Law of 1994.
5. The OTMD shall include all lodging businesses with fifty-five (55) rooms or more located within

the boundaries of the City of Oxnard, as shown in the map attached as Exhibit A.

6. The name of the district shall be Oxnard Tourism Marketing District (OTMD).
7. The annual assessment rate is two percent (2.0%) of gross short-term sleeping room rental revenue. Based on the benefit received, assessments will not be collected on: stays of more than thirty (30) consecutive days; stays by an employee or officer of the United States government or an employee or officer of the State government that executes, under penalty of perjury, a form claiming such exemption; and stays by any person who is required to obtain a shelter in a lodging business by reason of circumstances such as fire, flood, or other disaster which makes that person's usual residence uninhabitable and proves that their residence is in an area that has been officially declared a disaster area by local, State, or federal authorities.
8. The assessments levied for the OTMD shall be applied toward sales and marketing programs to market assessed lodging businesses in Oxnard as tourist, meeting, and event destinations, as described in the Plan. Funds remaining at the end of any year may be used in subsequent years in which OTMD assessments are levied as long as they are used consistent with the requirements of this resolution and the Plan.
9. The renewed OTMD will have a nine (9) year and three (3) month term, beginning April 1, 2024 or as soon as possible thereafter, and ending on June 30, 2033, unless renewed pursuant to Streets and Highways Code § 36660.
10. Bonds shall not be issued.
11. The time and place for the public meeting to hear testimony on renewing the OTMD and levying assessments are set for July 18, 2023, at 6:00 PM, or as soon thereafter as the matter may be heard, at the Council Chambers located at 305 West Third Street, Oxnard, CA 93030. Following the public meeting, the City Council shall move to introduce and conduct the first reading of the Ordinance to renew the OTMD and continue the levy of assessments.
12. The time and place for the public hearing to renew the OTMD and the levy of assessments are set for September 5, 2023, at 6:00 PM, or as soon thereafter as the matter may be heard, at the Council Chambers located at 305 West Third Street, Oxnard, CA 93030. The City Clerk is directed to provide written notice to the lodging businesses subject to assessment of the date and time of the meeting and hearing, and to provide that notice as required by Streets and Highways Code § 36623, no later than July 7, 2023.
13. At the public meeting and hearing, the testimony of all interested persons for or against the renewal of the OTMD may be received. If at the conclusion of the public hearing, there are of record written protests by the owners of the lodging businesses within the renewed OTMD that will pay more than fifty percent (50%) of the estimated total assessment of the entire OTMD, no further proceedings to renew the OTMD shall occur for a period of one (1) year.
14. Following a successful public hearing, at the same City Council meeting on September 5, 2023, held at the Council Chambers located at 305 West Third Street, Oxnard, CA 93030, the City

Council may adopt the Ordinance, renewing the OTMD and continue levying the assessments.

15. The complete Plan is on file with the City Clerk and may be reviewed upon request.

16. This resolution shall take effect immediately upon its adoption by the City Council.

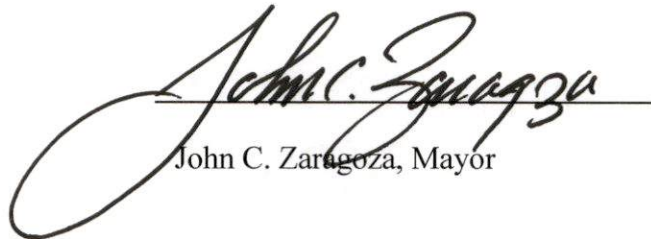
I HEREBY CERTIFY that the foregoing Resolution of Intention was introduced and adopted at a regular meeting of the City Council on the 29 day of June 2023 by the following vote:

AYES: Councilmembers Basua, MacDonald, Madrigal, Perello, Teran, Valenzuela Zavala and Zaragoza

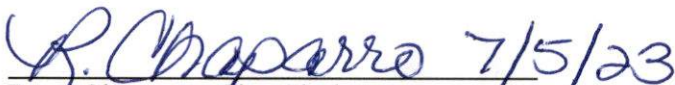
NOES: None.

ABSENT: None.

ABSTAIN: None.


John C. Zaragoza, Mayor

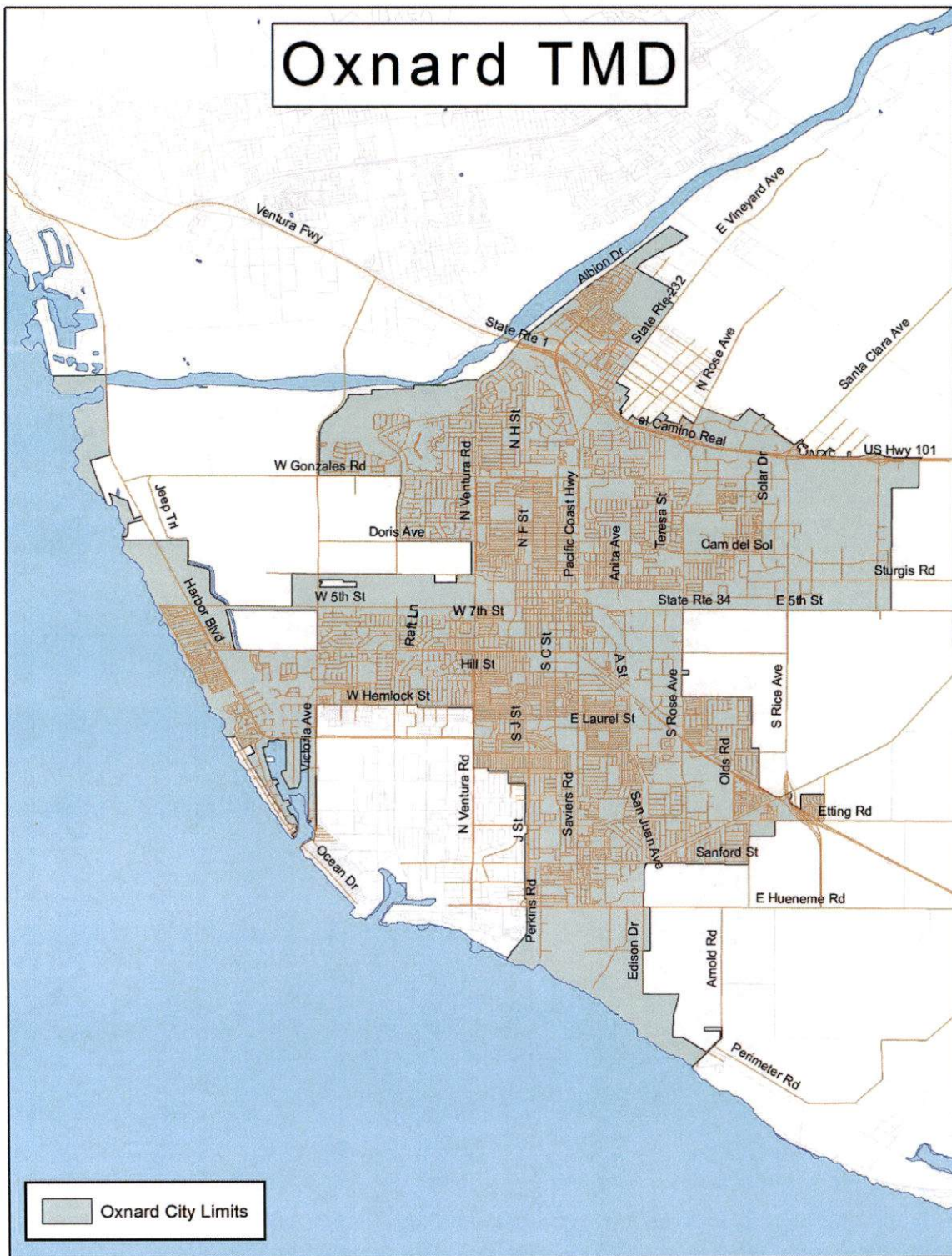
ATTEST:


Rose Chaparro, City Clerk

APPROVED AS TO FORM:


Stephen M. Fischer, City Attorney

EXHIBIT A
District Boundaries



CITY OF OXNARD

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD ADDING ARTICLE 1.5 TO CHAPTER 13 OF THE OXNARD CITY CODE REGARDING THE OXNARD TOURISM MARKETING DISTRICT AND AMENDING THE TITLE OF ARTICLE 1 OF CHAPTER 13 OF THE OXNARD CITY CODE FROM “ASSESSMENTS, FEES AND TAXES” TO “ASSESSMENTS AND TAXES”

WHEREAS, the City of Oxnard (City) created the Oxnard Tourism Marketing District (OTMD) on March 5, 2019 pursuant to Resolution No. 15,200, with the OTMD beginning on April 1, 2019; and

WHEREAS, the OTMD was created for a five (5) year term, which ends on March 31, 2024, and

WHEREAS, lodging businesses with fifty five (55) rooms or more located within the boundaries of the City of Oxnard that will pay more than fifty percent (50%) of the proposed assessment have petitioned the City Council (Council) to renew the OTMD; and

WHEREAS, included with the petitions was a Management District Plan (Plan) summary that describes the proposed assessment to be levied on certain lodging businesses to pay for sales and marketing programs, and other improvements and activities set forth in the Plan; and

WHEREAS, the assessed lodging businesses within the OTMD will receive a specific benefit from the activities and improvements set forth in the Plan; and

WHEREAS, on June 29, 2023, at 6:00 PM at the Council Chambers located at 305 West Third Street, Oxnard, CA 93030 (Council Chambers), the Council adopted a Resolution of Intention, Resolution No. 15,722; and

WHEREAS, the public meeting and public hearing to consider the renewal of the OTMD have been properly noticed in accordance with Streets and Highways Code Section 36623; and

WHEREAS, on July 18, 2023, at 6:00 PM at the Council Chambers, the Council held a public meeting regarding the renewal of the OTMD, introduced this Ordinance to renew the OTMD and continue the levy of assessments, and the Council heard and received objections and protests, if any, to the renewal of the OTMD and the levy of the proposed assessments; and

WHEREAS, on September 5, 2023 at 6:00 PM at the Council Chambers, the Council held a public hearing to renew the OTMD and continue the levy of assessments, and the Council heard and received all objections and protests, if any, to the renewal of the OTMD and the levy of the proposed assessment; and

WHEREAS, on September 5, 2023, following the receipt of all objections and protests and the adoption of the Resolution of Formation, Resolution No. 15,722, the City Council considered adoption of this Ordinance to renew the OTMD and continue the levy of the assessments; and

WHEREAS, the City Clerk has determined that there was no majority protest, defined as written protests received from owners of lodging businesses in the renewed OTMD who would pay fifty percent (50%) or more of the assessments proposed to be levied; and

WHEREAS, the OTMD is a tourism marketing district formed under the provisions of the Property and Business Improvement District Law of 1994, as set forth in the Streets and Highways Code Section 36600 *et seq.*; and

WHEREAS, the amount of the proposed assessment for the OTMD will total approximately \$1,000,000 for each full fiscal year (July 1 – June 30) of operations. The initial year of operations will be a partial year consisting of three (3) months, with an anticipated assessment budget of \$250,000; and

WHEREAS, adoption of this Ordinance does not diminish the legal effect of the adoption of the Resolution of Formation.

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

Section 1. The title of Article I of Chapter 13 of the Oxnard City Code is amended to read as follows:

“ARTICLE 1. ASSESSMENT AND FEES”.

Section 2. Article 1.5 is added to Chapter 13 of the Oxnard City Code to read as follows:

“ARTICLE 1.5: OXNARD TOURISM MARKETING DISTRICT

SEC. 13-3. RENEWAL OF OXNARD TOURISM MARKETING DISTRICT.

Pursuant to the provisions of the Property and Business Improvement District Law of 1994 (Streets and Highways Code Section 36600 *et seq.*), the Oxnard Tourism Marketing District (OTMD) is hereby renewed effective April 1, 2024 or as soon as possible thereafter, and shall end on June 30, 2033.

SEC. 13-4. MANAGEMENT DISTRICT PLAN.

The Management District Plan (Plan) for the OTMD dated June 8, 2023 is hereby adopted and approved.

SEC. 13-5. ACTIVITIES AND IMPROVEMENTS.

- (A) The activities to be provided to benefit businesses in the OTMD shall be funded by the levy of assessments. The revenue from the assessment levy shall not be used to provide activities or improvements outside the OTMD unless the activities or improvements are marketing or signage pointing to the OTMD; or for any purpose other than the purposes specified in this Ordinance, the Resolution of Intention, the Resolution of Formation, and the Plan.
- (B) The Council finds as follows:
 - (1) The activities funded by the assessment will provide a specific benefit to assessed

lodging businesses within the OTMD that is not provided to those not paying the assessment.

- (2) The assessment is a charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.
- (3) The assessment is a charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product.
- (4) Assessments imposed pursuant to the OTMD are levied solely upon the assessed lodging business, and the lodging business owner is solely responsible for payment of the assessment when due. If the owner chooses to collect any portion of the assessment from a transient or customer, that portion shall be specifically called out and identified for the transient or customer in any and all communications from the business owner as the "OTMD Assessment" or the "Tourism Assessment" as specified in the Plan.

(C) The assessments levied for the OTMD shall be applied toward sales and marketing programs, and other improvements and activities as set forth in the Plan.

(D) Assessments levied on certain lodging businesses within the OTMD pursuant to this Ordinance shall be levied on the basis of benefit. Because the services provided are intended to increase room rentals, an assessment based on gross short term room rental revenue is the best measure of benefit.

SEC. 13-6. BUDGET.

The assessments for the OTMD will total approximately \$1,000,000 for each full fiscal year (July 1 – June 30) of operations. The initial year of operations will be a partial year consisting of three (3) months, with an anticipated assessment budget of \$250,000.

SEC. 13-7. NO ISSUANCE OF BONDS.

Bonds shall not be issued to fund the OTMD.

SEC. 13-8. BOUNDARIES.

The renewed OTMD includes all lodging businesses with fifty-five (55) rooms or more located within the boundaries of the City of Oxnard as described in the Management District Plan.

SEC. 13-9. ASSESSMENTS.

- (A) The annual assessment rate of the OTMD is two percent (2.0%) of gross short-term sleeping room rental revenue. Based on the benefit received, assessments will not be collected on: stays of more than thirty (30) consecutive days; stays by an employee or officer of the United States government or an employee or officer of the State government that executes,

under penalty of perjury, a form claiming such exemption; and stays by any person who is required to obtain a shelter in a lodging business by reason of circumstances such as fire, flood, or other disaster which makes that person's usual residence uninhabitable and proves that their residence is in an area that has been officially declared a disaster area by local, State, or federal authorities.

- (B) The assessments shall be used for the purposes set forth herein and any funds remaining at the end of any year may be used in subsequent years in which the OTMD assessment is levied as long as they are used consistent with the requirements set forth herein.

SEC. 13-10. COLLECTIONS.

The City will be responsible for collecting the assessment on a monthly basis (including any delinquencies, penalties and interest) from each lodging business located in the boundaries of the OTMD. The City shall take all reasonable efforts to collect the assessments from each assessed lodging business.

SEC. 13-11. OWNERS' ASSOCIATION.

Through adoption of this Ordinance and the Plan, the Council has the right pursuant to Streets and Highways Code Section 36651 to identify the body that shall implement the proposed program. As defined in Streets and Highways Code Section 36612, the Council hereby designates the Owners' Association of the OTMD as that body. The Oxnard Convention & Visitors Bureau dba Visit Oxnard (VO) shall continue to be the OTMD Owners' Association. The Council is authorized to contract with VO to administer the OTMD.

SEC. 13-12. ANNUAL REPORT.

Pursuant to Streets and Highways Code Section 36650, VO shall cause to be prepared a report for each fiscal year, except the first year, for which assessments are to be levied and collected to pay the costs of the improvement and activities described in the report. The first report shall be due after the first year of operation of the OTMD.

SEC. 13-13. AMENDMENTS TO ENABLING LEGISLATION..

The renewed OTMD shall be subject to any amendments to the Property and Business Improvement District Law of 1994 (California Streets and Highways Code Section 36600 *et. seq.*)."

Section 2. Severability. If any section, subsection, sentence, clause or phrase or word of this Ordinance is for any reason held to be unconstitutional, unlawful or otherwise invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Oxnard declares that it would have passed and adopted this Ordinance and each and all provisions irrespective of the fact that any one or more of said provisions may be declared invalid or unconstitutional without regard to any such decision or preemptive legislation.

Section 3. Publication. Pursuant to Government Code Section 36933(c)(1), the City Attorney was designated to prepare, and the City Clerk published, a summary of this ordinance, and a certified copy of the ordinance was posted in the Office of the City Clerk a minimum of five (5) days before the City

Council's adoption of this Ordinance. The City Clerk shall certify as to the adoption and shall cause the summary thereof to be published within fifteen (15) days of the adoption and shall post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

Section 4. Effective Date. Ordinance No. _____ was first read on July 18, 2023, finally adopted on September 5, 2023, to become effective thirty (30) days after adoption.

PASSED AND ADOPTED THIS 5TH DAY OF SEPTEMBER 2023, BY THE FOLLOWING VOTE: :

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

John C. Zaragoza, Mayor

Rose Chaparro, City Clerk

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney

Renewal of Oxnard Tourism Marketing District (OTMD)

City Council

Ashley Golden, Assistant City Manager

July 18, 2023

Background

- Council approved the OTMD formation on March 5, 2019.
- Visit Oxnard has the responsibility of managing the OTMD.
- The OTMD creates a revenue source to help fund marketing and sales promotion efforts for lodging businesses with fifty-five (55) rooms or more located within the boundaries of the City of Oxnard.
- Oxnard lodging businesses and Visit Oxnard now wish to renew the OTMD for a nine (9) year and three (3) month term.

OTMD RENEWAL PROCESS

June 29, 2023 Resolution of Intention Hearing (Completed)

- City Council initiated proceedings to renew the OTMD by adoption of a resolution expressing its intention to renew the OTMD.
- Petitions in favor of OTMD renewal were submitted by 7 lodging businesses, which represent 100% of the total OTMD assessments.

No Later Than: July 7, 2023 Notice (COMPLETED)

- City mailed written notice to the owners of all businesses proposed to be within the OTMD. This begins a mandatory forty-five (45) day period in which lodging business owners may protest OTMD renewal.

July 18, 2023 Public Meeting and Introduction of Ordinance (CURRENT STEP)

- Allow public testimony on the renewal of the OTMD and levy of assessments. At the public meeting, the Council shall introduce the Ordinance renewing the OTMD and levying the assessment.

September 5, 2023 Final Public Hearing and Adoption of Ordinance (NEXT STEP)

- Provided there are protests totaling less than 50% from the owners of lodging businesses in the renewed OTMD which will pay more than fifty percent (50%) of the assessments proposed to be levied the Council, following the public hearing, can decide to establish the renewed OTMD by adopting the subject ordinance.

Financial Impact

- If renewed, the OTMD would generate approximately \$1,000,000 on an annual basis for each full fiscal year for promotion of travel and tourism specific to Oxnard.
 - The initial “year” of operations will be a partial year consisting of three (3) months, with an anticipated assessment budget of \$250,000.
 - This money is collected by the City and sent to Visit Oxnard.
- The City will receive a fee of one percent (1%) of the amount collected to cover its costs of administration.

COMMITTEE OUTCOME

- This item did not originate in Committee. Per Resolution 15,286 F.2, items that are already approved by Council that have continuing work can go straight to Council.
 - The City Council authorized this TMD in 2019 and the renewal does not substantially change the TMD.
 - Additionally, the TMD was heard at the June 29, 2023 Council meeting.

Staff's Recommendation

That the City Council:

- Conduct the first Public Meeting to allow members of the public to provide comments on the renewal of the Oxnard Tourism Marketing Districts (OTMD); and
- Approve the first reading by title only and waive further reading of an ordinance adding Sections 13-3 through 13-13 to Article 1.5 of Chapter 13 of the Oxnard City Code regarding the Oxnard Tourism Marketing District.



QUESTIONS?



CITY COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. M.1

DATE: July 18, 2023

TO: City Council

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

SUBJECT: Grant Application Resolution for the Clean California Local Grant Program Cycle 2. (10 minutes)

RECOMMENDATION

That the City Council adopt a resolution:

1. Ratifying the submittal of a grant application to the California Department of Transportation (Caltrans) for \$3,534,000 (12.5% local match of \$442,000 from the Urban Greening Grant Fund) in Clean California Local Grant Program funds for the Campus Park Enhancement Project;
2. Authorizing the City Manager or designee to execute grant agreements;
3. Authorizing the Finance Director or designee to submit financial reports and grant claims and approve budget appropriations for the use of the grant funds; and
4. Authorizing the Public Works Director or designee to submit non-financial reports.

(This item did not originate in Committee.)

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

BACKGROUND

The Clean California Local Grant Program (Program) is a competitive statewide program created to beautify and clean up local streets and roads, tribal lands, parks, pathways, transit centers, and other public spaces. The Program is one part of the nearly \$1.1 billion Clean California initiative that takes direct aim at the continuous trash generation that has overwhelmed Caltrans and its partners. The Program budget is approximately \$100 million for projects that will be completed and open to the public, with all funds expended by June 30, 2026. Each grant award shall not exceed \$5,000,000.

The grant requires a local match, based on the disadvantaged status of the project site and the area surrounding the project site. With no matching funds identified for competitive projects within the City, no application was going to be submitted for this round. However, after receiving an Urban Greening grant to fund Phase II of Campus Park in April of 2023, staff was able to utilize the Urban Greening grant as the required matching funds (12.5% local match of \$442,000) for this Clean California grant application. Therefore, the grant application was not able to get on a Council agenda earlier than July 18, 2023, and before the grant application deadline of May 31, 2023. The grant application was submitted on May 30, 2023.

DISCUSSION

The project involves Phase III components of the Campus Park Master Plan concept that has recently been developed as part of the State Parks Program grant that is funding Phase I. The Phase III project application involves moving the

existing dog park location from the southeast corner to the southwest corner of the park, adding additional amenities to the community garden, adding additional cultural and botanical signage, trash cans, a restroom, bioswales, and landscaping. The project will be able to be designed and constructed within the grant timeline. Since Phase II of the project is already funded and design will start shortly, assuming available staffing, the design and construction of Phase III may be added to the scope of Phase II.

In order to maximize the scoring of the grant proposal, while benefiting illegal dumping needs in the community, the project will also integrate a city-wide litter abatement and illegal dumping prevention media campaign.

STRATEGIC PRIORITIES

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

FINANCIAL IMPACT

If awarded, \$3,534,000 in Clean California Local Grant Program funds will be recognized and appropriated in Fiscal Year 2023-24. The project site requires 12.5% local match of \$442,000, based on disadvantaged community indices. Funds from the awarded Urban Greening grant (Fund 210-State Grant) will be used as the matching funds. No City funds will be used as grant match. Annual operations and maintenance cost increases are estimated to be \$65,000 annually.

Proposed Project Total

PROJECT	STATE REQUESTED SHARE	CITY OF OXNARD MATCH (12.5% of requested grant amount; comprised of Urban Greening Grant Funds)	TOTAL PROJECT COST
Campus Park Enhancement Project	\$3,534,000	\$442,000	\$3,976,000

For Finance Use Only: Match: State Grant Fund (Org. 2103301 Obj. 59800 / Capital Outlay Fund (Org. 3013301) Project C2328

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Eric Humel, Grants Specialist

ATTACHMENTS

1. Resolution
2. Presentation

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD
APPROVING THE SUBMITTAL OF A GRANT APPLICATION FOR CLEAN
CALIFORNIA LOCAL GRANT PROGRAM GRANT FUNDS

WHEREAS, Oxnard City Council Resolution No. 12,053 sets out the procedure by which City staff may submit grant applications, including approval by resolution of the City Council; and

WHEREAS, the Public Works Department has requested that City Council ratify the submittal of an application to the California Department of Transportation for \$3,534,000 in Clean California Local Grant Program funds to be used for the Campus Park Enhancement Project.

NOW, THEREFORE, the City Council of the City of Oxnard resolves to ratify the submittal of a grant application by the City Manager to the California Department of Transportation for the purpose of obtaining grant funding for the Campus Park Enhancement Project. The City Council further resolves that the City Manager or designee is authorized to execute grant agreements; the Finance Director or designee is authorized to submit financial reports and grant claims and approve budget appropriations for the use of grant funds; and the Director of Public Works or designee is authorized to submit non-financial reports.

PASSED AND ADOPTED THIS 18th day of July, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

John C. Zaragoza, Mayor

Resolution No.

GRANT APPLICATION FOR CLEAN CALIFORNIA LOCAL GRANT PROGRAM

Page 2

ATTEST:

Rose Chaparro, City Clerk

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney

Grant Application Resolution for the Clean California Local Grant Program Cycle 2

City Council
July 18, 2023

Eric Humel, Grants Coordinator
Public Works Department

That the City Council adopt a resolution:

1. Ratifying the submission of a grant application to the California Department of Transportation (Caltrans) for \$3,534,000 (12.5% local match of \$442,000 from the Urban Greening Grant Fund) in Clean California Local Grant Program funds for the Campus Park Enhancement Project;
2. Authorizing the City Manager or designee to execute grant agreements;
3. Authorizing the Finance Director or designee to submit financial reports and grant claims and approve budget appropriations for the use of the grant funds; and
4. Authorizing the Public Works Director or designee to submit non-financial reports.

Clean California Grant Program (Cycle 2)

- The grant program budget is \$100 million statewide, with all funds to be expended by June 2026
- Local match is required based on the disadvantaged status of the project site and the surrounding areas
- The City was awarded a \$3.5 million Urban Greening Grant for Campus Park in April of 2023, which was able to be used as the matching funds
- Staff subsequently submitted the grant application by the deadline in May, using the recently awarded grant as the matching funds. The earliest available Council agenda was July 18, 2023.

- The project involves Phase III components of the Campus Park Master Plan
 - moving the dog park
 - adding additional amenities and landscaping
 - adding a restroom



EMERGENT CONCEPT (MASTER PLAN)

- ① WALKING PATH
- ② ALLUVIAL WASH
- ③ RECREATION CORE
- ④ MULTI-PURPOSE LAWN
- ⑤ INCLUSIVE PLAYGROUND
- ⑥ PAVILION
- ⑦ PELOTA MIXTECA
- ⑧ MEADOW
- ⑨ COMMUNITY GARDEN
- ⑩ RESTROOM
- ⑪ DOG PARK
- ⑫ AIRPLANE VIEWING MOUND
- ⑬ CULTURAL GARDEN
- ⑭ ENTRY GARDEN
- ⑮ COMMUNITY GATEWAY
- ⑯ PERIMETER LANDSCAPING

EMERGENT CONCEPT (MASTER PLAN)

- ① WALKING PATH
- ② ALLUVIAL WASH
- ③ RECREATION CORE
- ④ MULTI-PURPOSE LAWN
- ⑤ INCLUSIVE PLAYGROUND
- ⑥ PAVILION
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- ⑧ MEADOW
- ⑨ COMMUNITY GARDEN
- ⑩ RESTROOM
- ⑪ DOG PARK
- ⑫ AIRPLANE VIEWING MOUND
- ⑬ CULTURAL GARDEN
- ⑭ ENTRY GARDEN
- ⑮ COMMUNITY GATEWAY
- ⑯ PERIMETER LANDSCAPING



- If awarded, \$3,534,000 in Clean California Local Grant Program funds will be recognized and appropriated
- Project site requires 12.5% local match of \$442,000, based on disadvantaged community indices. Funds from the awarded Urban Greening grant will be used as the matching funds
- No City funds will be used as match
- Annual operations and maintenance cost increases are estimated to be \$65,000 annually



QUESTIONS



CITY COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. M.2

DATE: July 18, 2023

TO: City Council

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

SUBJECT: Grant Applications Resolution for the Inflation Reduction Act – Urban and Community Forestry Grant Program. (10 minutes)

RECOMMENDATION

That the City Council adopt a resolution:

1. Ratifying the submittal of a grant application to the United States Department of Agriculture Forest Service for \$333,502.50 (1:1 local match of \$333,502.50) in Inflation Reduction Act – Urban and Community Forestry grant funds for the Oxnard Area ND Urban Forestry Project;
2. Ratifying the submittal of a grant application to the United States Department of Agriculture Forest Service for \$651,423 in Inflation Reduction Act – Urban and Community Forestry grant funds for the Oxnard Area D Urban Forestry Project;
3. Authorizing the City Manager or designee to execute the grant agreements, if awarded
4. Authorizing the Finance Director or designee to submit financial reports and grant claims and approve budget appropriations for the use of the grant funds; and
5. Authorizing the Public Works Director or designee to submit non-financial reports.

(This item did not originate in Committee.)

Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/rGilAKP_OM0

BACKGROUND

The USDA Forest Service is disbursing approximately \$1 Billion for urban and community forestry investments through the Inflation Reduction Act - Urban and Community Forestry grant program. Eligible projects include those that protect, enhance, and expand equitable urban tree canopy cover to maximize community access to human health, social, ecological, and economic benefits; projects that involve long-term urban forest planning, assessment, and management; projects that enact proactive and systematic maintenance and monitoring of urban trees; and projects that advance the use of tree inventories, monitoring, and assessment tools, among other objectives.

The grant program requires local match for those areas of the project that are not designated as disadvantaged, per the White House Climate and Economic Justice Screening Tool (CEJST). Approximately half of the City of Oxnard is designated as disadvantaged per the CEJST. Therefore, two grant applications were submitted: one for the areas of Oxnard that are classified as disadvantaged (requiring no matching funds - titled the “Oxnard Area D Urban Forestry Project”), and one for the areas of Oxnard that are not classified as disadvantaged (requiring matching funds - titled the “Oxnard Area ND Urban Forestry Project”).

The grant Notice of Funding Opportunity (NOFO) was released on April 12, 2023. Staff reviewed the NOFO, and

discussed how the grant program might fit with the current urban forestry needs and priorities of the City. Since matching funds of \$333,502.50 were required for the areas of the City that are not classified as disadvantaged, staff needed to (1) determine how many trees are currently in both the disadvantaged and non-disadvantaged census tracts, (2) determine the amount of matching funds necessary for the application (based on item #1), and (3) confirm the ability to meet the match requirements. The Public Works Parks Division finalized this information in May of 2023.

The earliest available City Council meeting was July 18, 2023. However, the grant applications were due June 1, 2023, and were therefore submitted at that time.

DISCUSSION

The project involves an inventory of the City’s trees, including a Level 2 Risk Assessment of the trees, measuring canopy cover for city maintained trees citywide, and removing an estimated 600 trees that are anticipated to be recommended to be removed as part of the tree inventory and Level 2 Risk Assessment process. The project also involves urban forestry management training for the City staff.

The citywide project is split into two grant applications in order to minimize the amount of required matching funds. If awarded, the project will be managed as one project, but the financial details will be tracked separately between disadvantaged and non-disadvantaged areas in order to satisfy grantor requirements.

This project is designed to serve as a critical first step towards the long-term resiliency and health of the City’s urban forest, and is consistent with the 2021 tree report from Dudek taken to the City Council on January 18, 2022. The inventory, assessment, and educational components of this project will promote the use of technology and tools in urban forestry, as well as mapping gaps in tree canopy coverage and help to mitigate climate change.

The application submitted for the areas that require 1:1 matching funds of \$333,502.50 will utilize a portion of the operating funding for the citywide urban forest program. Utilizing operating funds as a match may require a reduced number of trees to be pruned annually, slightly extending the pruning cycle. Staff recommends completing the citywide tree inventory, assessment, and hazard tree removals as a priority over the regularly scheduled grid tree pruning. This grant opportunity will help reduce the City’s costs in initiating the long-term resiliency of our urban forest, ultimately saving money in the future.

STRATEGIC PRIORITIES

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

FINANCIAL IMPACT

Upon notification of successful awards, City staff will appropriate the grant awards. The grant application for the Oxnard Area D Urban Forestry Project was submitted requesting \$651,423 and requires no matching funds. The grant application for the Oxnard Area ND Urban Forestry Project was submitted requesting \$333,502.50 in grant funds, and will require a 1:1 match in the amount of \$333,502.50 from the current tree grid pruning project with available appropriations in the FY 2023-24 Adopted Budget from the General Fund Parks (1013301-53200) and Special Districts (various accounts) funds, depending on jurisdiction.

Proposed Project Totals

PROJECT	FEDERAL REQUESTED SHARE	CITY OF OXNARD MATCH	TOTAL PROJECT COST
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Oxnard Area D Urban Forestry Project	\$651,423	No match required	\$651,423
Oxnard Area ND Urban Forestry Project	\$333,502.50	\$333,502.50	\$667,005

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Eric Humel, Grants Specialist

ATTACHMENTS

1. Resolution
2. Presentation

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD
APPROVING THE SUBMITTAL OF GRANT APPLICATIONS FOR
INFLATION REDUCTION ACT – URBAN AND COMMUNITY FORESTRY
FUNDS

WHEREAS, Oxnard City Council Resolution No. 12,053 sets out the procedure by which City staff may submit grant applications, including approval by resolution of the City Council; and

WHEREAS, the Public Works Department has requested that City Council ratify the submittal of two applications to the United States Department of Agriculture Forest Service for \$333,502.50 and \$651,423, in Inflation Reduction Act – Urban and Community Forestry funds for the Oxnard Area ND Urban Forestry Project and the Oxnard Area D Urban Forestry Project, respectively;

NOW, THEREFORE, the City Council of the City of Oxnard resolves to ratify the submittal of two grant applications by the City Manager to the United States Department of Agriculture Forest Service for the Oxnard Area ND Urban Forestry Project and the Oxnard Area D Urban Forestry Project. The City Council further resolves that the City Manager or designee is authorized to execute grant agreements; the Finance Director or designee is authorized to submit financial reports and grant claims and approve budget appropriations for the use of grant funds; and the Director of Public Works or designee is authorized to submit non-financial reports.

PASSED AND ADOPTED THIS 18th day of July, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

John C. Zaragoza, Mayor

Resolution No.

GRANT APPLICATIONS FOR INFLATION REDUCTION ACT – URBAN AND COMMUNITY
FORESTRY FUNDS

Page 2

ATTEST:

Rose Chaparro, City Clerk

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney

Grant Application Resolution for the Inflation Reduction Act – Urban and Community Forestry Grant Program

City Council
July 18, 2023

Eric Humel, Grants Coordinator
Public Works Department

That the City council adopt a resolution:

1. Ratifying the submission of a grant application to the United States Department of Agriculture Forest Service for \$333,502.50 (1:1 local match of \$333,502.50) in Inflation Reduction Act – Urban and Community Forestry grant funds for the Oxnard Area ND Urban Forestry Project;
2. Ratifying the submission of a grant application to the United States Department of Agriculture Forest Service for \$651,423 in Inflation Reduction Act – Urban and Community Forestry grant funds for the Oxnard Area D Urban Forestry Project;
3. Authorizing the City Manager or designee to execute the grant agreements, if awarded
4. Authorizing the Finance Director or designee to submit financial reports and grant claims and approve budget appropriations for the use of the grant funds; and
5. Authorizing the Public Works Director or designee to submit non-financial reports.

Inflation Reduction Act – Urban and Community Forestry Grant Program

- The grant program budget is approximately \$1 Billion
- Eligible projects include those benefitting urban forestry planning, assessment, and management
- Local match is required for applications that benefit areas not designated as disadvantaged
- Two grant applications were submitted: one for areas of Oxnard that are designated as disadvantaged, and one for areas of Oxnard that are not designated as disadvantaged

- The Notice of Funding Opportunity (NOFO) was released April 12, 2023
- Staff reviewed the NOFO to determine applicability to the City's needs
- Since matching funds were required for much of the City, before determining if an application was possible, staff needed to:
 1. Determine the number of trees in the areas of the City designated as disadvantaged and non-disadvantaged per the grant program's criteria
 2. Determine the amount of matching funds necessary based on these tree numbers
 3. Confirm the ability to meet the match requirements
- The Public Works Parks Division finalized this information in May of 2023, determining the feasibility to provide the required matching funds
- The earliest available City Council meeting was July 18, 2023.
- The grant applications were due June 1, 2023, and were therefore submitted at that time

- The citywide project is split into two grant applications in order to minimize the amount of required matching funds.
- If awarded, the project will be managed as one project, with the financial/grant details being tracked separately between the disadvantaged and non-disadvantaged areas as necessary
- The proposed project involves a tree inventory and risk assessment, the measuring of canopy cover, and tree removals
- The project is a critical first step to build long-term resiliency and health in the City's urban forest

- No matching funds are required for the proposed “Oxnard Area D Urban Forestry Project”
- Matching funds are required for the “Oxnard Area ND Urban Forestry Project”, and will come from a portion of the funding planned for citywide grid tree pruning, with a reduced number of trees pruned annually
 - Completing the tree inventory, assessment, and hazard tree removals is a priority over the regularly scheduled grid tree pruning
 - Recommended activities are consistent with the 2021 Tree report

- Grant application for the Oxnard Area D Urban Forestry Project was submitted requesting \$651,423 and requires no matching funds
- Grant application for the Oxnard Area ND Urban Forestry Project was submitted requesting \$333,502.50 in grant funds, and will require a 1:1 match in the amount of \$333,502.50 from the current tree grid pruning project (General Fund Parks and Special Districts funds)

PROJECT APPLICATION	FEDERAL SHARE REQUESTED	CITY OF OXNARD MATCH	TOTAL PROJECT COST
Oxnard Area D Urban Forestry Project	\$651,423	No match required	\$651,423
Oxnard Area ND Urban Forestry Project	\$333,502.50	\$333,502.50	\$667,005



QUESTIONS



CITY COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. M.3

DATE: July 18, 2023

TO: City Council

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

SUBJECT: Public Project Agreement 32400005 with Chrisp Company for On-Call Street Striping and Marking Services, Specification No. PW 23-91. (10 minutes)

RECOMMENDATION

That the City Council approve and authorize the Mayor to execute an Agreement with Chrisp Company in the amount not to exceed \$1,000,000 for a five-year term for On-Call Street Striping and Marking Services.

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

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/8YxxaTU5YDg>

BACKGROUND

The City's Public Works Streets Division maintains approximately 1,034 lane-miles of streets and roadways, which include approximately 1.8 million square feet of white and yellow pavement markings used to show turns, stops and yield lines, approaching warnings, bike lanes and crosswalks. The Streets Division has used outside pavement marking services for the past 25 years; our most recent vendor was Chrisp Company. The scope of this project is to restripe, replace, and install new pavement markings on an as-needed basis at locations throughout the City to meet current code requirements and enhance safety and visibility for vehicles, bicyclists, and pedestrian users.

DISCUSSION

Pavement marking is a vital maintenance aspect to enhance safety and directional information through visible striping and pavement symbols for City roads and intersections. Pavement markings are needed to clearly delineate the roadway for safe and efficient travel and to help communicate important information to road users. Pavement markings will be performed on an as-required basis as approved by the City Traffic Engineer. Examples include:

- Where pedestrians should cross the street
- When motorists should expect railroad or school crossings
- When motorists should expect a bicyclist

The specific work for these services includes furnishing all necessary labor, materials, equipment and other incidental and appurtenant work to provide on-call street striping and marking services, and all other appurtenant and associated work in accordance with the Contract Documents. Staff will work closely with neighborhood councils, businesses, and residents directly impacted to keep them informed when work is being done.

The notice inviting formal bids (NIFB) on the Project was published on April 20, 2023, and all bids were due on and opened on May 9, 2023. The bid requested rates and costs on a variety of services for the purpose of evaluation. The low

bidders rates will be documented in the agreement. The work will be issued through task orders and the contract will be for an amount not to exceed \$1,000,000 during the five-year term. The City received the following pricing using a representative sample of bid items:

CHRISP COMPANY:	\$342,180.00
TORO ENTERPRISES, INC:	\$493,562.00
WGJ ENTERPRISES, INC., dba PCI	\$776,660.00

The lowest bidder is Chrisp Company and its bid is responsive to the City's NIFB. Following this determination, procurement staff reviewed all documentation received from Chrisp Company and verified possession of required currently valid licenses, reviewed the Federal Occupational Safety and Health Administration (OSHA) website for safety violations, and verified registration with the California Department of Industrial Relations (DIR). Based upon the available information and research performed to date, staff believes that the vendor is capable of satisfactorily completing the services. Streets Division does not possess a specialized striping truck to perform pavement line striping at this high volume. Additionally, assistance is needed to help with the large volume of striping required throughout the City and the current staff level approved for this Division. Staff recommends that the City Council award the contract to Chrisp Company.

STRATEGIC PRIORITIES

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

FINANCIAL IMPACT

The total cost for this Agreement with Chrisp Company shall not exceed \$1,000,000 over the five-year contract term. The On-Call Street Striping and Marking Services will be funded from the General Fund Streets Division (1013401-53200). There is sufficient funding available in the FY 2023-24 adopted budget to fund the estimated \$200,000 in year one of the spending plan. Funding for subsequent fiscal years will be requested during the annual budget process.

Estimated Spending Plan						
Fiscal Year	FY 23-24	FY 24-25	FY 25-26	FY 26-27	FY 27-28	Total
Streets Maintenance	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$1,000,000

For Finance Use Only: General Fund (Org. 1013401, Obj. 53200)

COMMITTEE OUTCOME

The Public Works and Transportation Committee approved 3-0 on June 27, 2023 to approve the staff recommendation and to forward the item for Council approval.

Prepared by: Philip Schwieder, Streets Division Manager, Brian Yanez, Assistant Public Works Director

ATTACHMENTS

1. 32400005 Chrisp Company PW 23-91
2. Presentation

**CITY OF OXNARD CONTRACT FOR
ON-CALL STREET STRIPING AND MARKING SERVICES
SPECIFICATION NO. PW 23-91**

THIS CONTRACT ("Contract") is made and entered this 18th day of July, 2023 ("Effective Date"), by and between the CITY OF OXNARD, a California municipal corporation ("City") and CHRISP COMPANY ("Contractor"). Contractor's license number is 374600.

In consideration of the covenants set forth herein, the parties hereto agree as follows:

1. Incorporation. The Contract consists of all Contract Documents, which shall include the General Provisions, Special Provisions and all documents referenced in either the General or Special Provisions as well as the Contractor's Bid Response. These documents are incorporated herein by reference.
2. Scope of Services. Contractor shall perform all Tasks in a good and workmanlike manner for the project identified as On-Call Street Striping and Marking Services, Specification No. PW 23-91 ("Project"), as described in this Contract and in the Contract Documents, throughout the Contract Term. The Bid Sheets from the Contractor's Bid Response are attached hereto as "Exhibit A" and incorporated herein by this reference. The Special Provisions from the Contract Documents are attached hereto as "Exhibit B" and incorporated herein by this reference.
3. Compensation. In consideration of the services rendered pursuant to the requirements listed in the Contract Documents, City shall pay Contractor for each Task in accordance with the Contract Unit Prices submitted in the Bid and included in the attached Exhibit A, which in any case shall not exceed one million dollars (\$1,000,000) during the Contract Term.
4. Contract Term. The Contract Term shall begin on the Effective Date and end five (5) years thereafter, unless sooner terminated pursuant to the Contract Documents.
5. Antitrust Claims. In entering into this Contract, Contractor assigns to City all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act (Business and Professions Code Section 16700 *et seq.*) arising from purchases of goods, services, or materials pursuant to the Contract Documents. This assignment shall be made and become effective at the time City tenders final payment to Contractor without further acknowledgment by the parties.
6. Prevailing Wages. City and Contractor acknowledge that the Tasks comprising the Project are public works to which prevailing wages apply. Once the Project Manager issues a Task Order, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the corresponding Task will be on file with the Project Coordinator at City Hall and will be made available to any interested party on request. Contractor and all Subcontractors are not qualified to bid on, be listed in a Bid proposal, or engage in the performance of any contract for public work, as defined in Labor Code Sections 1720 through 1861, unless registered and qualified to perform public work pursuant to Labor Code Section 1725.5 at the time of Bid submission.
7. Workers' Compensation. Labor Code Sections 1860 and 3700 provide that every contractor will be required to secure the payment of compensation to its employees. In accordance with the provisions of Labor Code Section 1861, by signing this Contract, the Contractor certifies as follows: "I am aware of the provisions of Section 3700 of the Labor Code which require every

employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the Work of this Contract."

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

9. Authority. Any person executing this Contract on behalf of Contractor warrants and represents that he or she has the authority to execute this Contract on behalf of Contractor and has the authority to bind Contractor to the performance of its obligations hereunder.

10. Entire Agreement. This Contract, including all incorporated documents, constitutes the entire agreement between the parties hereto with respect to the Project and all related Tasks and supersedes all previous agreements, promises, proposals, representations, understandings and negotiations, whether written or oral, between the parties regarding the subject matter.

11. Amendment. No modification, amendment or supplement to this Contract other than Change Orders or Task Orders shall be binding unless made in writing and signed by the duly authorized representatives of both parties.

12. Counterparts. This Contract may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A signed copy of this Contract transmitted by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Contract for all purposes. This provision shall likewise apply to all Task Orders and other Contract Documents.

[signatures on following page]

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

CITY OF OXNARD

CHRISP COMPANY

☒ John C. Zaragoza, Mayor¹ _____ Date
☐ Purchasing Manager

 David Morris, Vice President² _____ Date

 Robert Bilotti, C.F.O. _____ Date

ATTEST:

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

APPROVED AS TO FORM:

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

¹ The City Council must authorize and the Mayor must sign any formally bid public project agreement over \$200,000. The Mayor may authorize and sign any informally bid public project agreement over \$100,000 but up to \$200,000. The Purchasing Manager may authorize and sign any informally bid public project agreement up to \$100,000.

² The City requires the following for any contract:

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

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

EXHIBIT A**CITY OF OXNARD****BID SHEETS FOR ON-CALL STREET STRIPING AND MARKING SERVICES
SPECIFICATION NO. PW 23-91**Bidder's Company Name: Chrisp Company

To the Honorable Mayor and Members of the City Council:

In compliance with the Notice Inviting Bids, the undersigned hereby agrees to execute the Contract to furnish all labor, materials, equipment and supplies for the Tasks comprising the Project in accordance with the Contract Documents to the satisfaction and under the direction of the Project Manager at the following prices:

Because the City is unable to predict the requirements for each bid item, award of the Contract will be based on a representative sample of a limited number of bid items listed below. The lowest responsive Bid will be determined by a weighted sum of the sample bid item unit prices. The sample items and weighting to be used will be selected by the City, kept in a sealed envelope until Bids are received, and opened at the Public Bid opening in order to ensure a competitive bidding process.

ITEM NO.	DESCRIPTION	UNIT OF MEASURE	EVALUATION QUANTITY	UNIT PRICE
PAINT TRAFFIC STRIPE (2-COAT)				
1	Detail 1 Stripe (6" Single Yellow Broken Line) Centerline	LF	1 – 5,000	\$ 0.20
			5,001 – 9,000	\$ 0.16
			OVER 9,000	\$ 0.14
2	Detail 2 Stripe (6" Single Yellow Broken Line) Centerline With Marker	LF	1 – 5,000	\$ 0.20
			5,001 – 9,000	\$ 0.16
			OVER 9,000	\$ 0.14
3	Detail 8 Stripe (6" Single White Broken Line) Lane line	LF	1 – 5,000	\$ 0.20
			5,001 – 9,000	\$ 0.16
			OVER 9,000	\$ 0.14
4	Detail 9 Stripe (6" Single White Broken Line) Lane line With Marker	LF	1 – 5,000	\$ 0.20
			5,001 – 9,000	\$ 0.16
			OVER 9,000	\$ 0.14
5	Detail 12 Stripe (6" Single White Broken Line) Lane line	LF	1 – 5,000	\$ 0.20
			5,001 – 9,000	\$ 0.16
			OVER 9,000	\$ 0.14
6	Detail 12A Stripe (6" Single White Broken Line) Lane line With Marker	LF	1 – 5,000	\$ 0.20
			5,001 – 9,000	\$ 0.16
			OVER 9,000	\$ 0.14

ITEM NO.	DESCRIPTION	UNIT OF MEASURE	EVALUATION QUANTITY	UNIT PRICE
7	Detail 21 Stripe (6" Double Yellow Solid Line) No Passing Zone	LF	1 – 5,000	\$ 0.25
			5,001 – 9,000	\$ 0.20
			OVER 9,000	\$ 0.18
8	Detail 22 Stripe (6" Double Yellow Solid Line) No Passing Zone With Marker	LF	1 – 5,000	\$ 0.25
			5,001 – 9,000	\$ 0.20
			OVER 9,000	\$ 0.18
9	Detail 24 Stripe (6" Single Yellow Solid Line) Left Edge Line	LF	1 – 5,000	\$ 0.20
			5,001 – 9,000	\$ 0.16
			OVER 9,000	\$ 0.12
10	Detail 25A Stripe (6" Single Yellow Solid Line) Left Edge Line With Marker	LF	1 – 5,000	\$ 0.20
			5,001 – 9,000	\$ 0.16
			OVER 9,000	\$ 0.12
11	Detail 27B Stripe (6" Single White Solid Line) Right Edge Line	LF	1 – 5,000	\$ 0.20
			5,001 – 9,000	\$ 0.16
			OVER 9,000	\$ 0.12
12	Detail 27C Stripe (6" Single White Broken Line) Extension Thru Intersection	LF	1 – 5,000	\$ 0.20
			5,001 – 9,000	\$ 0.16
			OVER 9,000	\$ 0.12
13	Detail 28 Stripe (6" Double Yellow Solid Line) Median Island	LF	1 – 5,000	\$ 0.60
			5,001 – 9,000	\$ 0.55
			OVER 9,000	\$ 0.50
14	Detail 29 Stripe (6" Double Yellow Solid Line) Median Island With Marker	LF	1 – 5,000	\$ 0.60
			5,001 – 9,000	\$ 0.55
			OVER 9,000	\$ 0.50
15	Detail 31 Stripe (6" Double Yellow Solid And Broken Line)	LF	1 – 5,000	\$ 0.40
			5,001 – 9,000	\$ 0.36
			OVER 9,000	\$ 0.32
16	Detail 32 Stripe (6" Double Yellow Solid And Broken Line) With Marker	LF	1 – 5,000	\$ 0.60
			5,001 – 9,000	\$ 0.55
			OVER 9,000	\$ 0.50
17	Detail 37B Stripe (8" Single White Broken Line With Marker) Lane Drop At Intersection	LF	1 – 5,000	\$ 0.50
			5,001 – 9,000	\$ 0.48
			OVER 9,000	\$ 0.46

ITEM NO.	DESCRIPTION	UNIT OF MEASURE	EVALUATION QUANTITY	UNIT PRICE
18	Detail 38 Stripe (8" Single White Solid Line) Channelizing Line With Marker	LF	1 – 5,000	\$ 0.50
			5,001 – 9,000	\$ 0.48
			OVER 9,000	\$ 0.46
19	Detail 38A Stripe (8" Single White Solid Line) Channelizing Line	LF	1 – 5,000	\$ 0.32
			5,001 – 9,000	\$ 0.30
			OVER 9,000	\$ 0.28
20	Detail 38B Stripe (8" Single White Solid Line) Channelizing Line With Double Marker	LF	1 – 5,000	\$ 0.50
			5,001 – 9,000	\$ 0.48
			OVER 9,000	\$ 0.46
21	Detail 39 Stripe (6" Single White Solid Line) Bike Lane Line	LF	1 – 5,000	\$ 0.20
			5,001 – 9,000	\$ 0.18
			OVER 9,000	\$ 0.16
22	Detail 39A Stripe (6" Single White Broken Line) Intersection Line Bike Lane	LF	1 – 5,000	\$ 0.20
			5,001 – 9,000	\$ 0.18
			OVER 9,000	\$ 0.16
23	Detail 40 Stripe (6" Single White Broken Line) Lane Line Extension Thru Intersection	LF	1 – 5,000	\$ 1.00
			5,001 – 9,000	\$ 1.00
			OVER 9,000	\$ 1.00
24	Detail 41 Stripe (6" Single Yellow Broken Line) Centerline Extension Thru Intersection	LF	1 – 5,000	\$ 1.00
			5,001 – 9,000	\$ 1.00
			OVER 9,000	\$ 1.00
THERMOPLASTIC TRAFFIC STRIPE				
25	Detail 1 Stripe (6" Single Yellow Broken Line) Centerline	LF	1 – 5,000	\$ 0.35
			5,001 – 9,000	\$ 0.30
			OVER 9,000	\$ 0.25
26	Detail 2 Stripe (6" Single Yellow Broken Line) Centerline With Marker	LF	1 – 5,000	\$ 0.35
			5,001 – 9,000	\$ 0.30
			OVER 9,000	\$ 0.25
27	Detail 8 Stripe (6" Single White Broken Line) Lane line	LF	1 – 5,000	\$ 0.35
			5,001 – 9,000	\$ 0.30
			OVER 9,000	\$ 0.25

ITEM NO.	DESCRIPTION	UNIT OF MEASURE	EVALUATION QUANTITY	UNIT PRICE
28	Detail 9 Stripe (6" Single White Broken Line) Lane line With Marker	LF	1 – 5,000	\$ 0.35
			5,001 – 9,000	\$ 0.30
			OVER 9,000	\$ 0.25
29	Detail 12 Stripe (6" Single White Broken Line) Lane line	LF	1 – 5,000	\$ 0.35
			5,001 – 9,000	\$ 0.30
			OVER 9,000	\$ 0.25
30	Detail 12A Stripe (6" Single White Broken Line) Lane line With Marker	LF	1 – 5,000	\$ 0.35
			5,001 – 9,000	\$ 0.30
			OVER 9,000	\$ 0.25
31	Detail 21 Stripe (6" Double Yellow Solid Line) No Passing Zone	LF	1 – 5,000	\$ 1.20
			5,001 – 9,000	\$ 1.10
			OVER 9,000	\$ 1.00
32	Detail 22 Stripe (6" Double Yellow Solid Line) No Passing Zone With Marker	LF	1 – 5,000	\$ 1.20
			5,001 – 9,000	\$ 1.10
			OVER 9,000	\$ 1.00
33	Detail 24 Stripe (6" Single Yellow Solid Line) Left Edge Line	LF	1 – 5,000	\$ 0.65
			5,001 – 9,000	\$ 0.60
			OVER 9,000	\$ 0.55
34	Detail 25A Stripe (6" Single Yellow Solid Line) Left Edge Line With Marker	LF	1 – 5,000	\$ 0.65
			5,001 – 9,000	\$ 0.60
			OVER 9,000	\$ 0.55
35	Detail 27B Stripe (6" Single White Solid Line) Right Edge Line	LF	1 – 5,000	\$ 0.65
			5,001 – 9,000	\$ 0.60
			OVER 9,000	\$ 0.55
36	Detail 27C Stripe (6" Single White Broken Line) Extension Thru Intersection	LF	1 – 5,000	\$ 0.65
			5,001 – 9,000	\$ 0.60
			OVER 9,000	\$ 0.55
37	Detail 28 Stripe (6" Double Yellow Solid Line) Median Island	LF	1 – 5,000	\$ 1.85
			5,001 – 9,000	\$ 1.80
			OVER 9,000	\$ 1.75
38	Detail 29 Stripe (6" Double Yellow Solid Line) Median Island With Marker	LF	1 – 5,000	\$ 2.20
			5,001 – 9,000	\$ 2.10
			OVER 9,000	\$ 2.00

ITEM NO.	DESCRIPTION	UNIT OF MEASURE	EVALUATION QUANTITY	UNIT PRICE
39	Detail 31 Stripe (6" Double Yellow Solid And Broken Line)	LF	1 – 5,000	\$ 1.65
			5,001 – 9,000	\$ 1.55
			OVER 9,000	\$ 1.45
40	Detail 32 Stripe (6" Double Yellow Solid And Broken Line) With Marker	LF	1 – 5,000	\$ 1.75
			5,001 – 9,000	\$ 1.65
			OVER 9,000	\$ 1.55
41	Detail 37B Stripe (8" Single White Broken Line With Marker) Lane Drop At Intersection	LF	1 – 5,000	\$ 0.85
			5,001 – 9,000	\$ 0.80
			OVER 9,000	\$ 0.75
42	Detail 38 Stripe (8" Single White Solid Line) Channelizing Line With Marker	LF	1 – 5,000	\$ 1.00
			5,001 – 9,000	\$ 0.95
			OVER 9,000	\$ 0.90
43	Detail 38A Stripe (8" Single White Solid Line) Channelizing Line	LF	1 – 5,000	\$ 1.00
			5,001 – 9,000	\$ 0.95
			OVER 9,000	\$ 0.90
44	Detail 38B Stripe (8" Single White Solid Line) Channelizing Line With Double Marker	LF	1 – 5,000	\$ 1.00
			5,001 – 9,000	\$ 0.95
			OVER 9,000	\$ 0.90
45	Detail 39 Stripe (6" Single White Solid Line) Bike Lane Line	LF	1 – 5,000	\$ 0.65
			5,001 – 9,000	\$ 0.60
			OVER 9,000	\$ 0.55
46	Detail 39A Stripe (6" Single White Broken Line) Intersection Line Bike Lane	LF	1 – 5,000	\$ 0.65
			5,001 – 9,000	\$ 0.60
			OVER 9,000	\$ 0.55
47	Detail 40 Stripe (6" Single White Broken Line) Lane Line Extension Thru Intersection	LF	1 – 5,000	\$ 1.00
			5,001 – 9,000	\$ 1.00
			OVER 9,000	\$ 1.00
48	Detail 41 Stripe (6" Single Yellow Broken Line) Centerline Extension Thru Intersection	LF	1 – 5,000	\$ 1.00
			5,001 – 9,000	\$ 1.00
			OVER 9,000	\$ 1.00

ITEM NO.	DESCRIPTION	UNIT OF MEASURE	EVALUATION QUANTITY	UNIT PRICE
METHYL METHACRYLATE (MMA) Traffic Stripe				
49	Methyl Methacrylate (MMA) Resin System (Green) Specification (State Spec AML (Authorized Material List) 2022 SSP 84-2	SF	1 – 5,000	\$ 7.50
			5,001 – 9,000	\$ 7.25
			OVER 9,000	\$ 7.00
PAINT PAVEMENT MARKING (2-COAT)				
50	Pavement Marking: Transverse marking such as (1) limit line, stop line, and yield lines, (2) crosswalk, (3) word, arrow, legend or symbol, numeral, shoulder, parking stall, or railroad-grade-crossing marking	SQFT	1 – 5,000	\$ 2.00
			5,001 – 9,000	\$ 1.85
			OVER 9,000	\$ 1.75
THERMOPLASTIC PAVEMENT MARKING				
51	Pavement Marking: Transverse marking such as (1) limit line, stop line, and yield lines, (2) crosswalk, (3) word, arrow, legend or symbol, numeral, shoulder, parking stall, or railroad-grade-crossing marking	SQFT	1 – 5,000	\$ 3.00
			5,001 – 9,000	\$ 2.75
			OVER 9,000	\$ 2.50
MISCELLANEOUS				
52	Paint Parking Stall Stripe (3" Double White Solid) Per City Parking Regulations And Standards	LF	1 – 5,000	\$ 0.65
			5,001 – 9,000	\$ 0.60
			OVER 9,000	\$ 0.55
53	Paint Handicapped Blue Line Border (4" Solid Blue Line)	LF	1 – 5,000	\$ 0.65
			5,001 – 9,000	\$ 0.60
			OVER 9,000	\$ 0.55
54	Install ADA Symbol (ISA) Pavement Marking	EA	1 – 5,000	\$ 50.00
			5,001 – 9,000	\$ 45.00
			OVER 9,000	\$ 40.00
55	Curb Paint (Red, Blue, Green, Yellow, Gray, Or White)	LF	1 – 5,000	\$ 2.25
			5,001 – 9,000	\$ 2.15
			OVER 9,000	\$ 2.00
56	Raised Pavement Marker (Retro-reflective)	EA	1 – 5,000	\$ 3.75
			5,001 – 9,000	\$ 3.50
			OVER 9,000	\$ 3.25

ITEM NO.	DESCRIPTION	UNIT OF MEASURE	EVALUATION QUANTITY	UNIT PRICE
57	Raised Pavement Marker (Non-Reflective)	EA	1 – 5,000	\$ 2.25
			5,001 – 9,000	\$ 2.15
			OVER 9,000	\$ 2.00
58	Remove Pavement Marker	EA	1 – 5,000	\$ 1.00
			5,001 – 9,000	\$ 0.50
			OVER 9,000	\$ 0.50
59	Remove Traffic Stripe (Grind)	LF	1 – 5,000	\$ 1.50
			5,001 – 9,000	\$ 1.00
			OVER 9,000	\$ 0.65
60	Remove Pavement Marking (Grind)	SQFT	1 – 5,000	\$ 2.00
			5,001 – 9,000	\$ 1.75
			OVER 9,000	\$ 1.50
61	Remove And Dispose Yellow, White, Green Thermoplastic Pavement Stripe	LF	1 – 5,000	\$ 1.50
			5,001 – 9,000	\$ 1.25
			OVER 9,000	\$ 1.00
62	Remove And Dispose Yellow, White, Green Thermoplastic Pavement Marking	SQFT	1 – 5,000	\$ 2.00
			5,001 – 9,000	\$ 1.50
			OVER 9,000	\$ 1.25
63	Remove And Dispose Yellow, White, Green Methyl Methacrylate (MMA) Pavement Stripe	LF	1 – 5,000	\$ 1.50
			5,001 – 9,000	\$ 1.25
			OVER 9,000	\$ 1.00
64	Remove And Dispose Yellow, White, Green Methyl Methacrylate (MMA) Pavement Marking	SQFT	1 – 5,000	\$ 2.00
			5,001 – 9,000	\$ 1.50
			OVER 9,000	\$ 1.25
DO NOT TOTAL ALL PRICES				

Note:

1. No adjustment in the Contract Unit Prices will be allowed. The cost of all labor, material, mobilization and demobilization, export of material, traffic control and other costs shall be included in the above Contract Unit Prices; no additional compensation will be granted for such expenses.
2. The quantities listed in the Bid Sheet are supplied only to give an indication of the general scope of work.

3. Items may be adjusted or deleted. Any changes to the quantities for these items shall not classify as a substantial change as stipulated in Greenbook Section 7-3.5.2 and 7-3.5.3. Regardless of total actual volume compared to estimated quantities, the unit prices provided above shall be applied to the final quantity when payment is calculated for these items. No adjustment in the unit prices will be allowed. The City reserves the right to not use any of the estimated quantities, and if this right is exercised, the Contractor will not be entitled to any additional compensation. The cost of all labor, materials, export of material shall be included in the above unit costs; no additional compensation will be granted for such expenses.
4. By signing below, Bidder acknowledges that the Evaluation Quantities above are estimates only, and are given solely for the purpose of facilitating the comparison of Bids, and that the Contractor's compensation will be computed on the basis of the actual quantities in the completed Work.

The City does not promise or guarantee that Contractor's services will be called upon at any time or at all.

Bidder acknowledges receipt of all addenda

Addendum:	Date Received:
#01	N/A
#02	

Addendum:	Date Received:
#03	
#04	

Bidder's Name (Company): Chrisp Company

Signature: 
 Print: David L Morris

Title: Executive Vice President
 Date: 5/08/2023

Signature: 
 Print: Tammie Allison

Title: Secretary
 Date: 5/08/2023

EXHIBIT B

SPECIAL PROVISIONS



FOR

**ON-CALL STREET STRIPING AND MARKING
SERVICES**

SPECIFICATION NO. PW 23-91

Reviewed and approved:

Philip Schwieder

Philip Schwieder, Project Manager

Apr 12, 2023

Date

EXHIBIT B

SPECIAL PROVISIONS

1000 GENERAL

1000-1 LOCATION AND DESCRIPTION OF WORK

The Work for the On-Call Street Striping and Marking Services Project shall consist of furnishing all materials, tools, equipment, traffic control, mobilization, demobilization, and labor required for installing traffic striping, pavement markings, and raised pavement markers, on an on-call basis in accordance with the State of California Standard Plans and Specifications, latest revision, MUTCD 2014, revision 7, and these Special Provisions including Appendix A – Caltrans Standard Plans.

Install traffic stripes and pavement markings in paint, thermoplastic or Methyl Methacrylate (MMA), per the detail and at the locations shown on the plan for each Task and in accordance with State of California Standard Specifications, latest edition, Department of Transportation, if provided.

Traffic stripes and pavement markings must be retroreflective.

Thermoplastic: Thermoplastic must comply with State Specification PTH-02SPRAY, PTH-02HYDRO, or PTH-02ALKYD.

Paint: The paint for traffic stripes and pavement markings must comply with the specifications shown below:

Paint Specifications:

Paint Type	Color	Specification
Waterborne Traffic line	White, yellow, and black	CA Dept of Transportation Specification PTWB-01R2 ¹ dated June 2022 (see attached Appendix B)
Acetone-based	White, yellow, and black	State Spec PT-150VOC (A)
Waterborne traffic line for the international symbol of accessibility and other curb markings	Blue, red, and green	Federal Specification TT-P-1952E
2 Coat		

The color of painted traffic stripes and pavement markings must comply with ASTM D6628.

Colored pavement marking for bicycle lane must comply with the specifications shown below:

Paint Type	Color	Specification
Methyl Methacrylate (MMA) resin system	Green	State Spec AML (Authorized Material List) 2022 SSP 84-2
Abrasion-resistant; anti-skid surfacing		
Application thickness: 25 to 60-mils, Mix ratio 98:2		
2 Coat		
Surface preparation and application per manufacturer's specifications		

All Work necessary to establish satisfactory lines for stripes and all layout Work required for pavement markings (surface cleaning, applying primer coat, etc.) shall be performed by the Contractor. Cost for these activities shall be included in the unit cost of each item.

Prior to removal of existing pavement striping, Contractor shall inventory all existing striping. One (1) copy of the inventory shall be provided to the City Inspector prior to the start of Work.

Removal, handling, and disposal of yellow methyl methacrylate (MMA), yellow thermoplastic and yellow painted traffic stripe and pavement marking shall be performed in accordance with Section 14-11.12 of SSS, excluding paragraph 3.

Removal of all other methyl methacrylate (MMA), thermoplastic and painted stripe and pavement marking shall be accomplished using the grinding method. Grinding shall be smooth so as to not cut deep grooves in existing pavement and shall remove at least 98% of existing paint and/or thermoplastic markings. A coat of asphalt slurry shall be applied to ground pavement that is six months old or newer.

Removal of traffic stripes and pavement markings on Caltrans right of way shall be accomplished using wet sand blasting or Caltrans approved method.

Cat tracking shall consist of stretching a rope to make a straight line between control points on tangent alignment and on a true arc through control points on curved alignment and placing spots of paint along the rope. The spots shall not be more than 3 inches in width and not more than 5 feet apart on curves or 10 feet apart on tangents.

Dribble lines shall consist of marking the pavement with a thin line of paint using a striping machine or other suitable device. Dribble lines shall be on a straight line between control points on tangent alignment and on a true arc through control points on curved alignment.

Paint for cat tracks and dribble lines shall be the same color as the traffic stripe for which the markings are placed.

Laser guidance equipment shall be capable of maintaining the alignment of traffic stripes with an accuracy equivalent to, or better than, that obtainable through use of cat tracking or dribble lines, as determined by the City Engineer.

All cat tracking for all striping (lane lines, limit lines, crosswalks, and pavement markings) shall be reviewed and approved by the City Engineer prior to installing the final striping.

Colored Pavement for Bicycle Lanes: Green colored pavement is approved for use in bicycle lanes in accordance with **MUTCD Interim Approval 14 (IA-14)**, only to enhance the conspicuity of where bicyclists are required to operate, and areas of the bicycle lane where bicyclists and other roadway traffic might have potentially conflicting weaving or crossing movements.

The pattern of the green colored pavement may be in a manner matching the pattern of Caltrans Detail 39A; filling in only the areas directly between a pair of dotted line segments.

1000-2 PROTECTION

Newly painted / thermoplastic traffic stripes and pavement markings shall be protected from damage by public traffic or other causes until the material is thoroughly dry and able to be driven on without causing damage to the Work.

1000-3 DEFINITIONS

Traffic Stripe: Longitudinal centerline or lane line used for separating traffic lanes in the same direction of travel or in the opposing direction of travel or a longitudinal edge line marking the edge of the traveled way or the edge of a lane at a gore area separating traffic at an exit or entrance ramp. A traffic stripe is shown as a traffic line.

Pavement Marking: Transverse marking such as (1) a limit line, a stop line, and yield lines (2) a crosswalk, (3) a word, an arrow, a legend or symbol, a numeral, shoulder, parking stall, or railroad-grade-crossing marking.

1000-4 MEASUREMENT AND PAYMENT

Payment for performing the Work shall be made on the unit cost basis per the Bid Sheets.

The unit cost for all activities described in the Bid Sheets shall include full compensation for furnishing all labor, materials, tools, equipment, mobilization, demobilization, traffic control and all incidentals including all stencils and street marking legend cutouts to complete all the activities involved with the delivery of these services, and no additional payment will be made therefore.

Prior to starting Work, all Work will be pre-approved by a Task Order issued by the Project Manager specifying the total quantity of each item comprising the Work. Within two (2) Working Days of receiving the Task Order, Contractor must submit a schedule to the Project Manager. The schedule must include a Work start date within thirty (30) days of issuance of the Task Order, and Work must be completed within sixty (60) Calendar Days of issuance of the Task Order. A separate invoice is required for each Task Order issued pursuant to the Contract. When billing, the Contractor shall use the appropriate unit costs pursuant to the Contract, multiplied by the total quantities specified in the Task Order. For example, if the Task Order specifies installing 6,000 sf of thermoplastic pavement markings, the unit cost billed for that item shall be as stated in the Contract's 5,001 to 9,000 SF quantity range for thermoplastic pavement markings. Additionally, when Work is billed in progress payments, the unit cost for each item

billed on each invoice shall reflect the unit cost for the total quantity of that item as specified in the Task Order, rather than using the unit cost of work completed to date.

Contractor shall only invoice for time spent at the locations of service. The City shall not pay for time spent on route or traveling to acquire parts or supplies unless approved by the Project Manager and included in the Task Order.

1000-5 SPECIFICATIONS FOR TRAFFIC CONTROL, PUBLIC CONVENIENCE, & SAFETY

The Contractor shall provide for the protection of the public all necessary barricades, traffic cones, warning signs, flagmen, lights, and other safety devices in accordance with State of California Standard Specifications, latest edition, Department of Transportation and the current requirements set forth in the California Manual of Uniform Traffic Control Devices (CA MUTCD) 2014 revision 7, published by the Department of Transportation, State of California. Traffic control plans must be approved by City prior to beginning construction.

Approach speed of public traffic (Posted Limit Miles Per Hour)	Work Areas
Over 45	Within 6 feet of the traffic lane but not on a traffic lane.
35 to 45	Within 3 feet of a traffic lane but not on a traffic lane

When traffic cones or delineators are used to delineate a temporary edge of traffic lane, the line of cones or delineators shall be considered to be the edge of traffic lane, however, the Contractor shall not reduce the width of an existing lane to less than 10 feet without written approval from the City Engineer. The lane closure provisions of this section shall not apply if the work area is protected by permanent or temporary railing or barrier.

The Contractor shall furnish the Oxnard Police Department with the written names and phone numbers of personnel to be contacted after hours for hazardous conditions to traffic that may require additional protective measures. Failure to respond to reasonable request for additional nighttime protection to traffic will result in the City causing the Work to be performed by others and costs withheld from moneys due. All traffic control devices shall meet the standards and be placed in accordance with the California State Manual of Traffic Controls for Construction and Maintenance Work Zones.

Traffic control devices not placed in accordance with approved plans shall be cause to stop construction by a City Inspector. All warning devices used during hours of darkness shall be reflectorized. All damaged traffic control devices shall be replaced in kind or better at the Contractor's expense.

Exhibit INS-D
INSURANCE REQUIREMENTS FOR SMALL/MEDIUM CONSTRUCTION AND SERVICES CONTRACTS
(WITHOUT BUILDER'S RISK REQUIREMENT)

1. Contractor shall obtain and maintain during the performance of any services under this Contract 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 Contractor, its agents, representatives, employees or subcontractors.
 - 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 location 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. If architectural, engineering, or electrical work will be performed under the Contract, Professional Liability/Errors and Omissions Insurance appropriate to the work being done in an amount not less than \$1,000,000, with neither Contractor nor listed subcontractors 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. Contractor 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-D. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on the attached forms or on other forms approved by the Risk Manager. All certificates and endorsements are to be received and approved by the Risk Manager before work commences. City reserves the right to require complete certified copies of all required insurance policies at any time. The certificates of insurance and endorsements shall be sent via email. If you have not received your request or are having difficulty with electronic upload, contact insurance@oxnard.org
3. Contractor agrees that all insurance coverages shall be provided by a California admitted insurance carrier with an A.M. Best rating of A:VII or better and shall be endorsed to state that coverage may not be suspended, voided, canceled by either party, or reduced in coverage or limits without 30 days' prior written notice to the Risk Manager. The Risk Manager shall not approve or accept any endorsement if the endorsement contains "best effort" modifiers or if the insurer is relieved from the responsibility to give such notice.
4. Contractor agrees that the Commercial General Liability and Business Automobile Liability Insurance policies shall be endorsed to name City, its City Council, officers, employees and volunteers as additional insureds as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor; premises owned, occupied or used by Contractor; or automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City, its City Council, officers, employees and volunteers. **The General Liability Special Endorsement Form and Automobile Liability Special Endorsement Form attached to this Exhibit INS-D 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. Any deductibles or self-insured retentions must be declared to and approved by the Risk Manager. At the option of the Risk Manager, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its City Council, officers, employees and volunteers, or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
7. All insurance standards applicable to Contractor shall also be applicable to Contractor's subcontractors. Contractor agrees to maintain appropriate agreements with subcontractors and to provide proper evidence of coverage upon receipt of a written request from the Risk Manager.

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

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

Endorsement Forms

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

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
CODE	SUB-CODE	COMPANIES AFFORDING INSURANCE COVERAGE
INSURED	COMPANY LETTER A	SPECIFY COMPANY NAMES IN THIS SPACE
	COMPANY LETTER B	

COVERAGES

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

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY [x] COMMERCIAL GENERAL LIABILITY [x] CLAIMS MADE [x] OCCUR. [x] 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; if architectural, engineering or electrical work will be performed under the Agreement				Minimum coverage \$1,000,000 Each consultant/ & listed sub-consultant \$500,000

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS

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 _____

GENERAL LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City")		SUBMIT IN DUPLICATE	
		ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)
PRODUCER		POLICY INFORMATION:	
Telephone:		Insurance Company: Policy No.: Policy Period: (from) (to) LOSS ADJUSTMENT EXPENSE ☐ Included in Limits ☐ In Addition to Limits	
NAMED INSURED		☐ Deductible ☐ Self-Insured Retention (check which) of \$ _____ with an Aggregate of \$ _____ applies to _____ coverage. ☐ Per Occurrence ☐ Per Claim (which)	
SAMPLE		APPLICABILITY This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ in which case only the following specific agreements and permits with the City are covered:	
TYPE OF INSURANCE		CITY AGREEMENTS/PERMITS	
GENERAL LIABILITY ☐ COMMERCIAL GENERAL LIABILITY ☐ COMPREHENSIVE GENERAL LIABILITY ☐ OWNERS & CONTRACTORS PROTECTIVE		OTHER PROVISIONS	
☐ Claims Made Retroactive Date _____ ☐ Occurrence			
COVERAGES	LIABILITY LIMITS IN THOUSANDS \$		Underwriter=s representative for claims pursuant to this insurance.
	EACH OCCURRENCE	AGGREGATE	
☐ GENERAL ☐ PRODUCTS/COMPLETED OPERATIONS ☐ PERSONAL & ADVERTISING INJURY ☐ FIRE DAMAGE ☐ _____ ☐ _____			CLAIMS: Name: _____ Address: _____ Telephone: () _____
In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:			
1) INSURED. The City, its officers, agents, employees and volunteers are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured. 2) CONTRIBUTION NOT REQUIRED. As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it. 3) SEVERABILITY OF INTEREST. This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included. 4) CANCELLATION NOTICE. With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City. 5) PROVISIONS REGARDING THE INSURED'S DUTIES. Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers. 6) SCOPE OF COVERAGE. This policy, if primary, affords coverage at least as broad as: a) Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG0001; or b) If excess, affords coverage which is at least as broad as the primary insurance form CG0001. Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.			
ENDORSEMENT HOLDER			
CITY OF OXNARD % Evident ID, Inc. 8520 Allison Pointe Blvd. Ste 223 PMB 5210 Indianapolis, Indiana 46250-4299 US		AUTHORIZED REPRESENTATIVE ☐ Broker/Agent ☐ Underwriter ☐ _____ I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement. Signature _____ (original signature required) Telephone: () Date Signed _____	

AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City")		SUBMIT IN DUPLICATE	
		ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)
PRODUCER Telephone: _____	POLICY INFORMATION: Insurance Company: _____ Policy No.: _____ Policy Period: (from) _____ (to) _____ LOSS ADJUSTMENT EXPENSE ☐ Included in Limits ☐ In Addition to Limits ☐ Deductible ☐ Self-Insured Retention (check which) of \$ _____ with an Aggregate of \$ _____ applies to _____ coverage. ☐ Per Occurrence ☐ Per Claim _____ (which) _____		
NAMED INSURED SAMPLE	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 46250-4299 US		AUTHORIZED REPRESENTATIVE ☐ Broker/Agent ☐ Underwriter ☐ _____ I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement. Signature _____ (original signature required) Telephone: (_____) _____ Date Signed _____	

Bond No. _____

**PAYMENT BOND
(LABOR AND MATERIALS)**

KNOW ALL PERSONS BY THESE PRESENTS that:

WHEREAS the City of Oxnard ("Agency"), State of California, has awarded to

CHRISP COMPANY, 43650 OSGOOD RD, FREMONT, CA 94539 ("Principal")
(Name and address of Contractor)

a contract (the "Contract") for the Work described as ON-CALL STREET STRIPING AND MARKING SERVICES , Specification No. PW 23-91 (the "Project").

WHEREAS, under the terms of the Contract, the Principal is required before entering upon the performance of any Work, to file a good and sufficient Bond with the Agency to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code.

NOW, THEREFORE, we, the undersigned Principal, and _____

(Name and address of Surety)

a corporation organized and existing under the laws of the State of _____ ("Surety") a duly admitted surety insurer under the laws of the State of California, as Surety, and our heirs, assignees, successors, executors and administrators are held and firmly bound, jointly and severally, unto the Agency and all Contractors, Subcontractors, laborers, material suppliers, and other persons employed in the performance of the Contract and any Task related to the Contract and referred to in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code in the penal sum of One Million Dollars (\$ 1,000,000), this amount being not less than one hundred percent (100%) of the total not to exceed Contract Price, in lawful money of the United States of America, for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to this Work or labor that the Surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit is brought upon this Bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by Agency in successfully enforcing this obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this Bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this Bond.

The Project shall be considered "accepted" for the purposes of triggering Bond deadlines at the Contractor's final completion of all Tasks, the City's acceptance of all Tasks, and the end of the Contract Term, whichever occurs last. Upon expiration of the time within which the California Labor Commissioner may serve a civil wage and penalty assessment against the principal, any of its Subcontractors, or both the principal and its Subcontractors pursuant to Labor Code Section 1741, and upon expiration of the time within which a joint labor management committee

may commence an action against the principal, any of its subcontractors, or both the principal and its subcontractors pursuant to Labor Code Section 1771.2, if the condition of this Bond be fully performed, then this obligation shall become null and void; otherwise, it shall be and remain in full force and effect.

The Surety hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Contract, including all incorporated documents, shall in any manner affect its obligations on this Bond. The Surety hereby waives notice of any such change, extension, alteration, or addition. Additionally, the Surety hereby waives California Civil Code Sections 2845 and 2849 as well as any statutes of limitation, statutes of repose and laches as they may apply to an action on this Bond.

IN WITNESS WHEREOF, this instrument has been duly executed by Principal and Surety, on the date set forth below, the name of each party being hereto affixed and these presents duly signed by its undersigned representative(s) pursuant to authority of its governing body.

Dated: _____

“Principal”

CHRISP COMPANY
43650 OSGOOD ROAD
FREMONT, CA 94539

“Surety”

By: _____

Its: _____

By: _____

Its: _____

By: _____

Its: _____

By: _____

Its: _____

(Seal)

(Seal)

Note: This Bond must be executed in duplicate and dated, all Surety signatures must be notarized, and evidence of the authority of any person signing as attorney-in-fact must be attached. The date of the Bond must not be before the Contract's Effective Date. Surety companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of California.

Bond No. _____

PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS that:

WHEREAS the City of Oxnard ("Agency"), has awarded to _

CHRISP COMPANY, 43650 OSGOOD RD, FREMONT, CA 94539 ("Principal")

(Name and address of Contractor)

a contract (the "Contract") for the Work described as ON-CALL STREET STRIPING AND MARKING SERVICES , Specification No. PW 23-91 (the "Project").

WHEREAS, Principal is required under the terms of the Contract to furnish a Bond for the faithful performance of the Contract.

NOW, THEREFORE, we, the undersigned Principal, and _____

(Name and address of Surety)

a corporation organized and existing under the laws of the State of _____ ("Surety") a duly admitted surety insurer under the laws of the State of California, as Surety, are held and firmly bound unto the Agency in the penal sum of One Million Dollars (\$ 1,000,000), this amount being not less than one hundred percent (100%) of the total not to exceed Contract Price, in lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, assigns, successors, executors and administrators, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if the hereby bounded Principal, his, her or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in the Contract and any alteration thereof made as therein provided for all Tasks, on the Principal's part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the Agency, its officers, agents and employees, as therein stipulated, within the Contract Term, then this obligation shall become null and void; otherwise, it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by Agency in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered. Surety hereby waives any statutes of limitation, statutes of repose and laches as they may apply to an action on this Bond.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, including all incorporated documents, or of the Work to be performed under any Task Order shall in any way affect the Surety's obligations under this Bond. The Surety hereby waives notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the Work in any Task Order. Surety hereby waives California Civil Code 2845 and 2849. The City is the principal beneficiary of this Bond and has all rights of a party hereto.

IN WITNESS WHEREOF, this instrument has been duly executed by Principal and Surety, on the date set forth below, the name of each party being hereto affixed and these presents duly signed by its undersigned representative(s) pursuant to authority of its governing body.

Dated: _____

“Principal”

CHRISP COMPANY
43650 OSGOOD ROAD
FREMONT, CA 94539

“Surety”

By: _____
Its: _____

By: _____
Its: _____

By: _____
Its: _____

By: _____
Its: _____

(Seal)

(Seal)

Note: This Bond must be executed in duplicate and dated, all Surety signatures must be notarized, and evidence of the authority of any person signing as attorney-in-fact must be attached. The date of Bond must not be before the Contract's Effective Date. Surety companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of California.

Public Project Agreement with Chrisp Company for On-Call Street Striping and Marking Services, Specification No. PW 23-91

Public Works and Transportation Committee, June 27, 2023

City Council, July 18, 2023

Philip Schwieder
Maintenance & Operations Superintendent

That the Public Works and Transportation Committee recommend that the City Council approve and authorize the Mayor to execute Agreement 32400005 with Chrisp Company in the amount not to exceed \$1,000,000 for a five-year term for On-Call Street Striping and Marking Services.

That the City Council approve and authorize the Mayor to execute Agreement 32400005 with Chrisp Company in the amount not to exceed \$1,000,000 for a five-year term for On-Call Street Striping and Marking Services.

- The Streets Division maintains over 1,034 lane-miles of streets and roadways, which include approximately 1.8 million square feet of white and yellow pavement markings
- The scope of this project includes restriping, replacing, and installing new pavement markings on an on-needed basis



When performing pavement line striping-type work, it requires a specialized striping truck to perform a high volume of productivity and use of materials when applying miles of line striping paint per day. Streets Division does not possess this type of striping truck.



Striping and Marking Services are used to show turns, stops and yield lines, approaching warnings, bike lanes, and crosswalks.



- The notice inviting formal bids (NIFB) on the Project was published on April 20, 2023. All bids were due and opened on May 9, 2023.
- The City received the following pricing using a representative sample of bid items; Chrisp Company was the lowest bidder and its bid is responsive to the City's NIFB.

Bidder	Bid Amount
Chrisp Company	\$342,180.00
Toro Enterprises, Inc.	\$493,562.00
WGJ Enterprises, Inc., dba PCI	\$776,660.00

- This Agreement will be funded from available appropriations from the General Fund Streets Division
- The annual spending plan is \$200,000 starting July 1, 2023
- Funding for subsequent fiscal years will be requested during the annual budget process

Estimated Spending Plan						
Fiscal Year	FY 23-24	FY 24-25	FY 25-26	FY 26-27	FY 27-28	Total
Streets Maintenance	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$1,000,000



QUESTIONS



CITY COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. M.4

DATE: July 18, 2023

TO: City Council

FROM: Javier Chagoyen-Lazaro, Chief Financial Officer, 805-385-5400, javier.chagoyenlazaro@oxnard.org

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

RECOMMENDATION

That the City Council:

1. 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
2. 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/6lncpNkW84s>

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.

The Resolution being presented to City Council has been updated with respect to the version presented at the Finance & Governance Committee to reflect governmental functions consistent with past resolutions.

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 not have 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)

COMMITTEE OUTCOME

The Finance and Governance Committee approved 3-0 on June 27, 2023 to approve the staff recommendation and to forward the item for Council approval.

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:

5860 Trinity Parkway, Suite 120
Centreville, VA 20120
Attn: Janis Varney

FOR CITY:

300 W Third Street
Oxnard, CA 93030
Attn: Mark Sewell

- (11) Contact Emails:

CONSULTANT'S PROJECT MANAGER:

Janis Varney
Janis.Varney@avenuinsights.com

CITY'S PROJECT MANAGER:

Mark Sewell
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

MUNISERVICES, LLC

☐ John C. Zaragoza, Mayor¹ _____
Date

Carl Kumpf, CEO _____
Date

ATTEST:

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

APPROVED AS TO FORM:

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

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

SCOPE OF SERVICES EXHIBIT

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 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.

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

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

Endorsement Forms

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

INS-A.doc

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER

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

CODE SUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY LETTER A SPECIFY COMPANY NAMES IN THIS SPACE

COMPANY LETTER B

COVERAGES

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

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

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS

CERTIFICATE HOLDER

CITY OF OXNARD % 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:	POLICY INFORMATION: Insurance Company: Policy No.: Policy Period: (from) (to) LOSS ADJUSTMENT EXPENSE ☐ Included in Limits ☐ In Addition to Limits						
NAMED INSURED	☐ Deductible ☐ Self-Insured Retention (check which) of \$ _____ with an Aggregate of \$ _____ applies to _____ coverage. ☐ Per Occurrence ☐ Per Claim (which)						
TYPE OF INSURANCE	APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ in which case only the following specific agreements and permits with the City are covered CITY AGREEMENTS/PERMITS						
GENERAL LIABILITY ☐ COMMERCIAL GENERAL LIABILITY ☐ Claims Made ☐ COMPREHENSIVE GENERAL LIABILITY Retroactive Date _____ ☐ OWNERS & CONTRACTORS PROTECTIVE ☐ Occurrence		OTHER PROVISIONS					
COVERAGES	LIABILITY LIMITS IN THOUSANDS \$ <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 50%; text-align: center;">EACH OCCURRENCE</th> <th style="width: 50%; text-align: center;">AGGREGATE</th> </tr> <tr> <td style="height: 100px;"></td> <td></td> </tr> </table>		EACH OCCURRENCE	AGGREGATE			CLAIMS: Underwriter's representative for claims pursuant to this insurance. Name: _____ Address: _____ Telephone: () _____
EACH OCCURRENCE	AGGREGATE						
☐ GENERAL ☐ PRODUCTS/COMPLETED OPERATIONS ☐ PERSONAL & ADVERTISING INJURY ☐ FIRE DAMAGE ☐ _____ ☐ _____							
In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:							
1. INSURED. The City, its officers, agents, 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 <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">ENDORSEMENT NO.</td> <td style="width: 50%;">ISSUE DATE (MM/DD/YY)</td> </tr> </table>		ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)
ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)				
PRODUCER Telephone: _____	POLICY INFORMATION: Insurance Company: _____ Policy No.: _____ Policy Period: (from) _____ (to) _____ LOSS ADJUSTMENT EXPENSE ☐ Included in Limits ☐ In Addition to Limits ☐ Deductible ☐ Self-Insured Retention (check which) of \$ _____ with an Aggregate of \$ _____ applies to _____ coverage. ☐ Per Occurrence ☐ Per Claim (which) _____				
NAMED INSURED	APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ in which case only the following specific agreements and permits with the City are covered: CITY AGREEMENTS/PERMITS				
TYPE OF INSURANCE ☐ 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 _____			

CITY COUNCIL OF THE CITY OF OXNARD

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 City Manager 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) Budgeting and Revenue Projections
- (b) Economic Development and Strategic Planning
- (c) Land Use Planning
- (d) Revenue Productivity Analysis
- (e) Fiscal and Economic Impact Analysis
- (f) Business Licensing and Tax Collection
- (g) Other appropriate governmental uses consistent with state law

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 18th day of July, 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

City Council

Mark Sewell, Assistant Chief Financial Officer
July 18, 2023

That the 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.

- 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.

- 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.

- 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.

That the 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 COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. M.5

DATE: July 18, 2023

TO: City Council

FROM: Javier Chagoyen-Lazaro, Chief Financial Officer, 805-385-5400, javier.chagoyenlazaro@oxnard.org

SUBJECT: Agreement with ProcureAmerica to Provide Cost Reduction Services. (10 minutes)

RECOMMENDATION

That the City Council 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/itXFJbk2Ufo>

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 it conducts a forensic legal review of the CPUC rulings, interpretations and regulations, as those rulings apply 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 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.

COMMITTEE OUTCOME

The Finance and Governance Committee approved 3-0 on June 27, 2023, to approve the staff recommendation and to forward the item for Council approval.

Prepared by: Mark Sewell, Assistant Chief Financial Officer

ATTACHMENTS

1. ProcureAmerica Agreement 32400009
2. ProcureAmerica Agreement Presentation
3. ProcureAmerica Agreement Presentation

**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 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

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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

Agreement No. _____

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.

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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

Agreement No. _____

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.

Agreement No. _____

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]

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

PROCUREAMERICA, INC.

John Zaragoza,¹
Mayor

Date

Todd Meln - Vice President

²Name and Title

3/29/23

Date

Todd Meln - Vice President

Name and Title

3/29/23

Date

ATTEST:

Rose Chaparro, CITY Clerk
(only if Mayor authorizes)

Date

APPROVED AS TO FORM:

Stephen M. Fischer, CITY
Attorney (always required)

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.

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 the 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, or assigns in any respect. Contractor shall not delete 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)

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.

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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 with ProcureAmerica, Inc. to provide Cost Reduction Services.

Finance and Governance Committee Meeting

Mark Sewell, Assistant Chief Financial Officer
June 27, 2023

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

- 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 ProcureAmerica 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 ProcureAmerica.

- City utilizing the “piggyback” provisions included in a 2020 agreement with the County of Orange and ProcureAmerica, Inc.
- This agreement was the result of a competitive request for proposals (RFP) process to which ProcureAmerica 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.

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

- The agreement is a cost share agreement whereby ProcureAmerica 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 ProcureAmerica.
- ProcureAmerica 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.

- 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 ProcureAmerica.
 - 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.

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



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