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

CITY OF OXNARD CALIFORNIA

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

Meeting Location: Council Chambers, 305 West Third Street

September 5, 2023

Closed Session - 4:30 PM

Appointment Items - 5:00 PM

Regular Meeting - 6:00 PM

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

1. Dial Phone Number: (888) 475-4499
2. Enter Meeting ID: 840 1353 2341
3. Passcode: 266479

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

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

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

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

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

YOU MAY PARTICIPATE IN THE MEETING IN THE FOLLOWING WAYS:

1. ATTEND THE MEETING AT THE LOCATION LISTED ABOVE: Submit a speaker card to the City Clerk.

2. EMAIL COMMENTS OR SIGN UP TO SPEAK REMOTELY BEFORE THE MEETING

   a. Submit a request to speak remotely by 3 p.m. on the day of the meeting by using the form available at **www.oxnard.org/citymeetings**.
   b. Submit an email to **cityclerk@oxnard.org** by 3 p.m. on the day of the meeting (indicate the agenda item number in the subject line). All email correspondence will be forwarded to the legislative body prior to the start of the meeting and made part of the legislative record.

In compliance with the Americans with Disabilities Act, if you require special assistance to participate in a meeting, please contact the City Clerk's Office at 385-7803. Notice at least 72 hours prior to the meeting will enable the City to reasonably arrange for your accessibility to the meeting.

Agenda Item Time Estimates include: (Minutes for Presentation + Council Discussion + Public Comment)

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

3. PROVIDE PUBLIC COMMENT REMOTELY DURING THE MEETING

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

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

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

A. ROLL CALL, POSTING OF AGENDA
THE FOLLOWING LEGISLATIVE BODIES ARE MEETING: City Council and Oxnard Housing Authority
CONSIDERATION OF TELECONFERENCE PARTICIPATION PURSUANT TO ASSEMBLY BILL 2449

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 (4:30 PM)

1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Government Code section 54956.9(d)(1))
Jason Gonzalez v. City of Oxnard, Ventura County Superior Court Case No. 56-2019-00523147-CU-PA-VTA

2. CONFERENCE WITH REAL PROPERTY NEGOTIATORS – (Government Code section 54956.8)
Property: 209 East Sixth Street, Oxnard, CA (APN 201-0-213-120)
Agency Negotiator: Emilio Ramirez
Negotiating Party: Fausto Solis
Under Negotiation: Price and terms of payment
Legislative Body: City Council

3. CONFERENCE WITH REAL PROPERTY NEGOTIATORS – (Government Code section 54956.8)
Property: (Street Address Not Assigned) (APN 201-0-213-150)
Agency Negotiator: Emilio Ramirez
Negotiating Party: Alice Flores
Under Negotiation: Price and terms of payment
Legislative Body: City Council

D. APPOINTMENT ITEMS (5:00 PM)

1. Police Department
   SUBJECT: Police Department Update. (50 minutes)
   RECOMMENDATION: That the City Council receive a report from the Police Chief on a variety of current public safety-related topics.

   Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/j_-21tQ787U
   Legislative Body: City Council
   Contact: Jason Benites, (805) 385-7624

E. OPENING CEREMONIES (6:00 PM)
Pledge of allegiance to the flag of the United States.

F. CEREMONIAL ITEMS

1. SUBJECT: Presentation of a Commendation to Chuck Carter for his outstanding contribution to the ongoing water quality issues in the Channel Islands Harbor.

G. 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.

H. 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 utilities rates as compared with other cities in the region.
   Legislative Body: City Council
   Contact: Alexander Nguyen, (805) 385-7430

I. 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.

J. 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.

K. 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.

L. INFORMATION/CONSENT AGENDA

1. City Clerk Department
SUBJECT: Approval of Minutes.
RECOMMENDATION: That the City Council approve the minutes of July 5, 18, and 27, 2023, regular meetings as presented.
Legislative Body: City Council
Contact: Dee Lai, (805) 385-8200

2. City Attorney Department
SUBJECT: Resolution Commending Eleanor Ebdon for over Twenty-Two Years of Service to the City of Oxnard.
RECOMMENDATION: That the City Council adopt a resolution commending Eleanor Ebdon for over twenty-two years of service to the City of Oxnard.

(This item did not originate in Committee.)
Legislative Body: City Council
Contact: Stephen Fischer, (805) 385-7483

3. Police Department
SUBJECT: Officer Wellness and Mental Health Grant.
RECOMMENDATION: That the City Council adopt a resolution:

1. Accepting a grant from the Board of State and Community Corrections (BSCC) California in the amount of $152,351.94 for officer wellness and mental health, with no matching funds requirement; and
2. Authorizing the City Manager or designee to execute the grant agreement and appropriate funds for the grant award; and
3. Authorizing the Chief Financial Officer or designee to submit financial reports and grant claims for the use of officer wellness and mental health funds award; and
4. Authorizing the Chief of Police or designee to submit all program-related progress or status reports.

(This item did not originate in Committee)
Legislative Body: City Council
Contact: Jason Benites, (805) 385-7624

4. Public Works Department
SUBJECT: Trade Services Agreement 32400020 with Blackpointe Group Construction & Management Inc., for On-Call Storm Channel Cleaning Services.
RECOMMENDATION: That the City Council approve and authorize the execution of an Agreement with Blackpointe Group Construction & Management Inc. (Blackpointe), for an amount not to exceed $900,000 for a three-year term ending September 19, 2026, for On-Call Storm

Channel Cleaning Services for the Public Works Department.

(Public Works and Transportation Committee approved 3-0)
Legislative Body: City Council
Contact: Michael Wolfe, (805) 385-8055

5. Public Works Department
SUBJECT: Trade Services Agreement 32400014 with SNF Polydyne Inc. dba Polydyne Inc. for the Supply and Delivery of Cationic Polymer to the Wastewater Division.
RECOMMENDATION: That the City Council approve and authorize the Mayor to execute an agreement with SNF Polydyne Inc. dba Polydyne Inc. (Polydyne) for an initial one-year term through September 6, 2024, with the option to extend through September 6, 2026, for a total contract not-to-exceed amount of $900,000, if extended, for the supply and delivery of cationic polymer to the Wastewater Division.

(Public Works and Transportation Committee approved 3-0.)
Legislative Body: City Council
Contact: Michael Wolfe, (805) 385-8055

6. City Manager Department
SUBJECT: 2024 Meeting Schedule for Legislative Bodies.
RECOMMENDATION: That City Council, Community Development Commission Successor Agency, Financing Authority, and Housing Authority adopt the proposed meeting dates for the calendar year 2024.

(This item did not originate in Committee.)
Legislative Body: City Council, Community Development Commission Successor Agency, Financing Authority, and Housing Authority Board
Contact: Alexander Nguyen, (805) 385-7430

7. Police Department
SUBJECT: Audit Services with Eadie & Payne, LLP for the 2020-2023 California Violence Intervention and Prevention (CalVIP) Grant
RECOMMENDATION: That the City Council approve an agreement in the amount not to exceed $25,000 with Eadie and Payne, LLP to perform an audit of the 2020-2023 California Violence Intervention and Prevention (CalVIP) grant.

(This item did not originate in Committee)
Legislative Body: City Council
Contact: Jason Benites, (805) 385-7624

8. Fire Department
SUBJECT: Response to Grand Jury Finding and Recommendation
RECOMMENDATION: That the City Council comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the Council's control related to the Ventura County Grand Jury Report "Water Availability for Wildfires in Ventura County" dated June 12, 2023, and the Mayor also comment on the findings and recommendations and submit such comments through the form titled "Response to 2022-2023 Ventura County Grand Jury Report Form."

(This item did not originate in Committee)
Legislative Body: City Council
Contact: Alexander Hamilton, (805) 385-7700

9. Public Works Department
SUBJECT: First Amendment to Professional Services Agreement A-8491 with Tetra Tech, Inc. for Professional Engineering Services for the Kamala and Hobson Cast Iron Pipe Replacement Project PW 22-83.
RECOMMENDATION: That the City Council approve and authorize the execution of a First Amendment to a Professional Services Agreement with Tetra Tech, Inc. (Tetra Tech) to increase the not to exceed amount from $850,000 to $947,000 for additional design work required for the Kamala and Hobson Cast Iron Pipe Replacement 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

M. PUBLIC HEARINGS

1. City Manager Department
SUBJECT: Resolution Declaring Results of Majority Protest Proceedings, adoption of Resolution and Second Reading and Adoption of the Ordinance to Renew the Oxnard Tourism Marketing District. (10 minutes)
RECOMMENDATION: That the City Council:

1. Hold a final public hearing, declare results of the majority protest proceeding, and adopt a resolution renewing the Oxnard Tourism Marketing District; and
2. Adopt Ordinance No. 3030 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.

(This item did not originate in Committee. Related items were heard at the June 29, 2023 and July 18, 2023 Council meetings.)

Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/cWPvn-Em9Qg
Legislative Body: City Council
Contact: Ashley Golden, (805) 385-7478

N. REPORTS

1. City Attorney Department
SUBJECT: Omnibus City Code Update. (10 minutes)
RECOMMENDATION: That the City Council approve the introduction and first reading by title only and waive further reading of an ordinance titled:

"AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD AMENDING

VARIOUS SECTIONS OF THE OXNARD CITY CODE TO ADDRESS CHANGES IN STATE LAW, CORRECT ERRORS, AND UPDATE GENDER-NEUTRAL REFERENCES."

(The Finance & Governance Committee approved 3-0 on July 25, 2023)
Please click the following link to view the required Measure M pre-recorded presentation video:
https://youtu.be/U-2QlNGaOLQ
Legislative Body: City Council
Contact: Stephen Fischer, (805) 385-7483

2. Public Works Department
SUBJECT: Draft Ventura County Stormwater Permit Implementation and Cost-Sharing Agreement A-8537. (10 minutes)
RECOMMENDATION: That the City Council approve and authorize the Mayor to sign, once finalized, the Ventura County Stormwater Permit Implementation and Cost-Sharing Agreement (Agreement) with the County of Ventura, the Ventura County Watershed Protection District, and the Cities of Camarillo, Fillmore, Moorpark, Ojai, Port Hueneme, San Buenaventura, Santa Paula, Simi Valley, and Thousand Oaks.

(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/hsCCDxXgrNQ
Legislative Body: City Council
Contact: Michael Wolfe, (805) 385-8055

3. Public Works Department
SUBJECT: Public Project Agreement 32400076 with Toro Enterprises, Inc. for Neighborhood Street Resurfacing Kamala Park And Bartolo Square South Project, Specification No. PW 23-104. (10 mins)
RECOMMENDATION: That the City Council approve and authorize:

1. A total of $4,170,133.72 in Project funds for the Neighborhood Street Resurfacing Kamala Park And Bartolo Square South Project, Specification No. PW 23-104 (Project No. C2209);
2. The Mayor to execute an Agreement with Toro Enterprises, Inc. in the amount of $3,475,111.72 for the Project;
3. Authorize a Project contingency amount of $347,511 (10%) with Toro Enterprises, Inc. for a total not to exceed value of $3,822,622.72 for the Project; and
4. A Project allocation amount of $347,511 (10%) 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.)

Please click the following link to view the required Measure M pre-recorded presentation video:
https://youtu.be/5M7mFzhwBsg
Legislative Body: City Council
Contact: Michael Wolfe, (805) 385-8055

O. ADJOURNMENT

CITY COUNCIL AGENDA REPORT

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

DATE: September 5, 2023

TO: City Council

FROM: Jason Benites, Police Chief, (805) 385-7624, jason.benites@oxnardpd.org

SUBJECT: Police Department Update. (50 minutes)

RECOMMENDATION

That the City Council receive a report from the Police Chief on a variety of current public safety-related topics.

Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/j_-21tQ787U

BACKGROUND

The Police Chief will provide a verbal update to the City Council about matters related to the Oxnard Police Department.

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: Jason Benites, Police Chief

ATTACHMENTS

1. Presentation

OXNARD CITY COUNCIL MEETING

SEPTEMBER 5, 2023

APPOINTMENT ITEM
REPORT TO CITY COUNCIL
POLICE DEPARTMENT UPDATE

JASON BENITES, CHIEF OF POLICE

CITY OF OXNARD CALIFORNIA

RECOMMENDATION

That the City Council receive a report from the Police Chief on a variety of current public safety related topics.

PRIORITIES

City Council

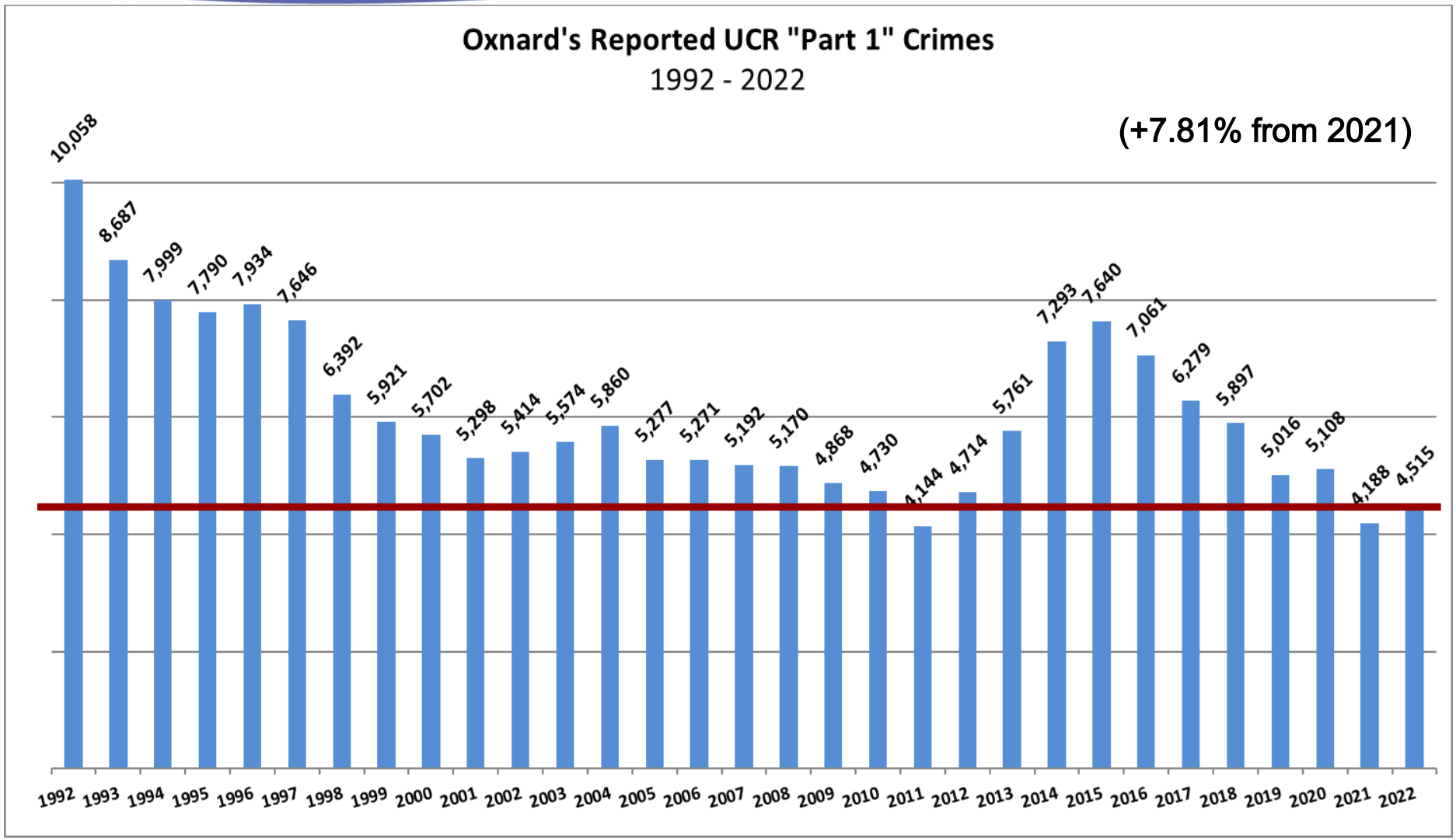
- Maintain 9-1-1 emergency response times
- Restore community policing

Police Department

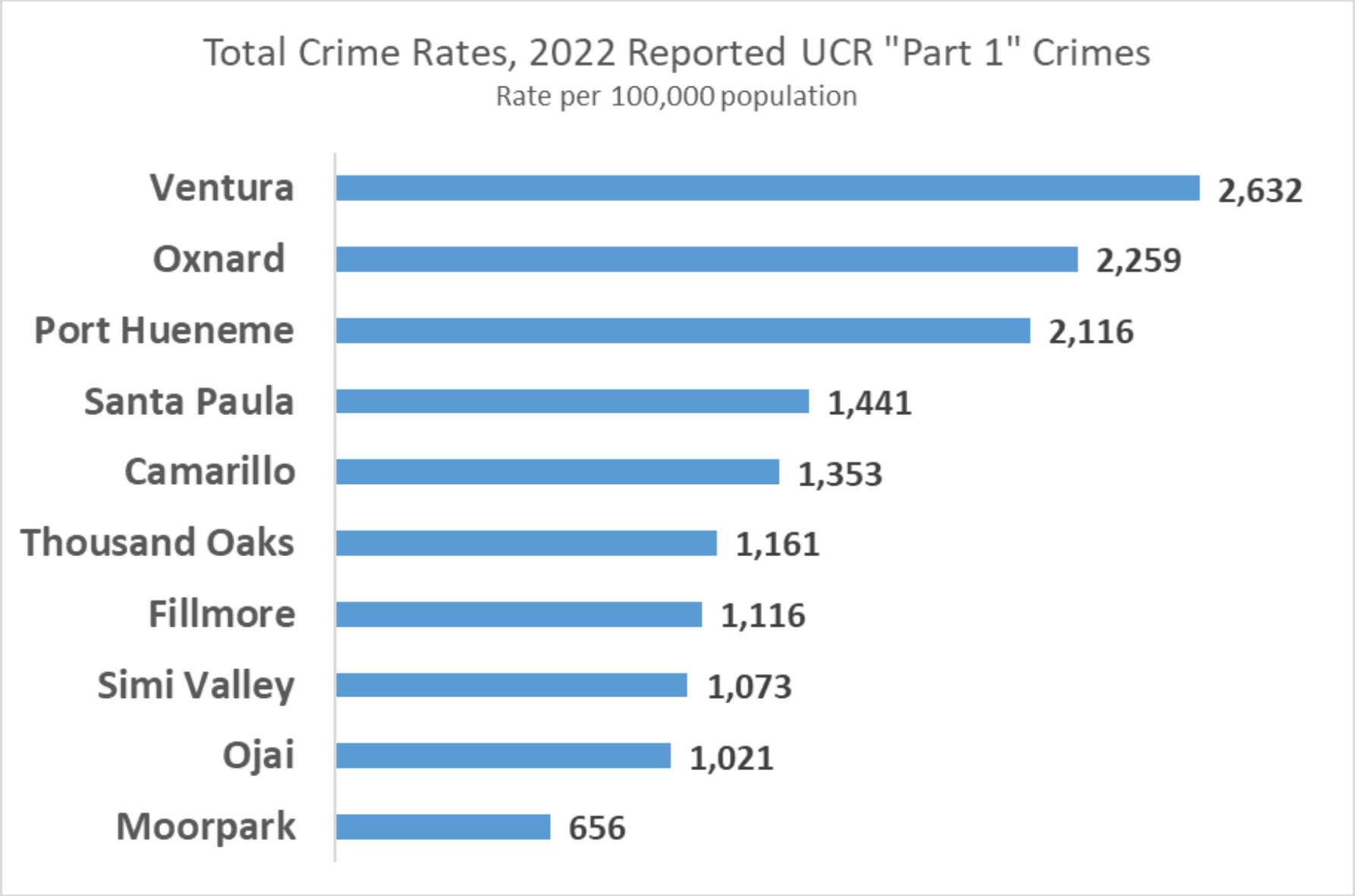
- Community safety
  - (Crime, traffic, community policing / neighborhood problem solving)
- Community engagement
- Maintain a culture of success
  - (Training, staffing, equipping for success. Effective and contemporary policies and procedures. Employee wellness and recognition)

CRIME

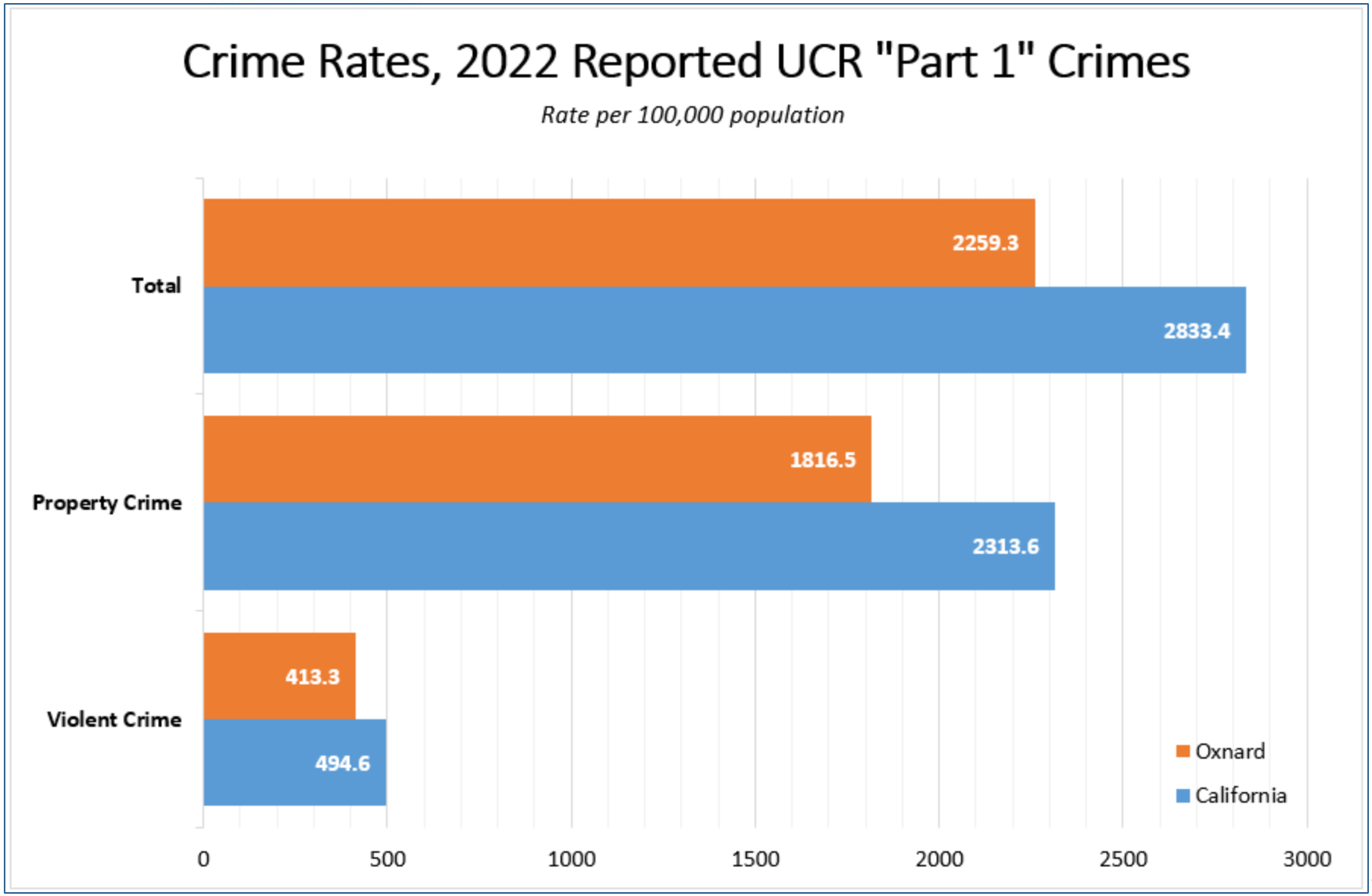
OXNARD: HISTORIC CRIME TRENDS



COMPARISON: VENTURA COUNTY CRIME RATE



COMPARISON: STATE OF CALIFORNIA



NEW CRIME REPORTING STANDARDS

UCR

- Only 8 'Part One' crimes were captured, using a hierarchy rule:
  - Murder, Rape, Robbery, Aggravated Assault, Larceny, Burglary, Arson, and Motor Vehicle Theft
- 'Part Two' crimes were not reported as only one per incident was allowed
- Provided limited information regarding the details and all offenses related to each incident

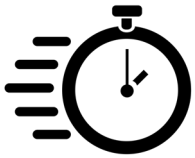
NIBRS

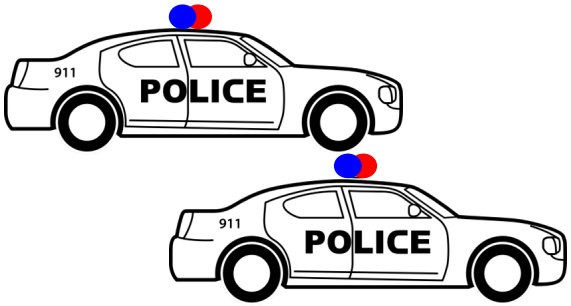
- NIBRS allows 71 'Group A' offenses to be reported
  - CA also requires additional detailed data values
- 'Group B' offenses that result in an arrest are now reported
- Captures details on each single crime incident—as well as on separate offenses within the same incident
  - Provides details on victims, known offenders, relationships to offenders, weapons, and property involved in crimes

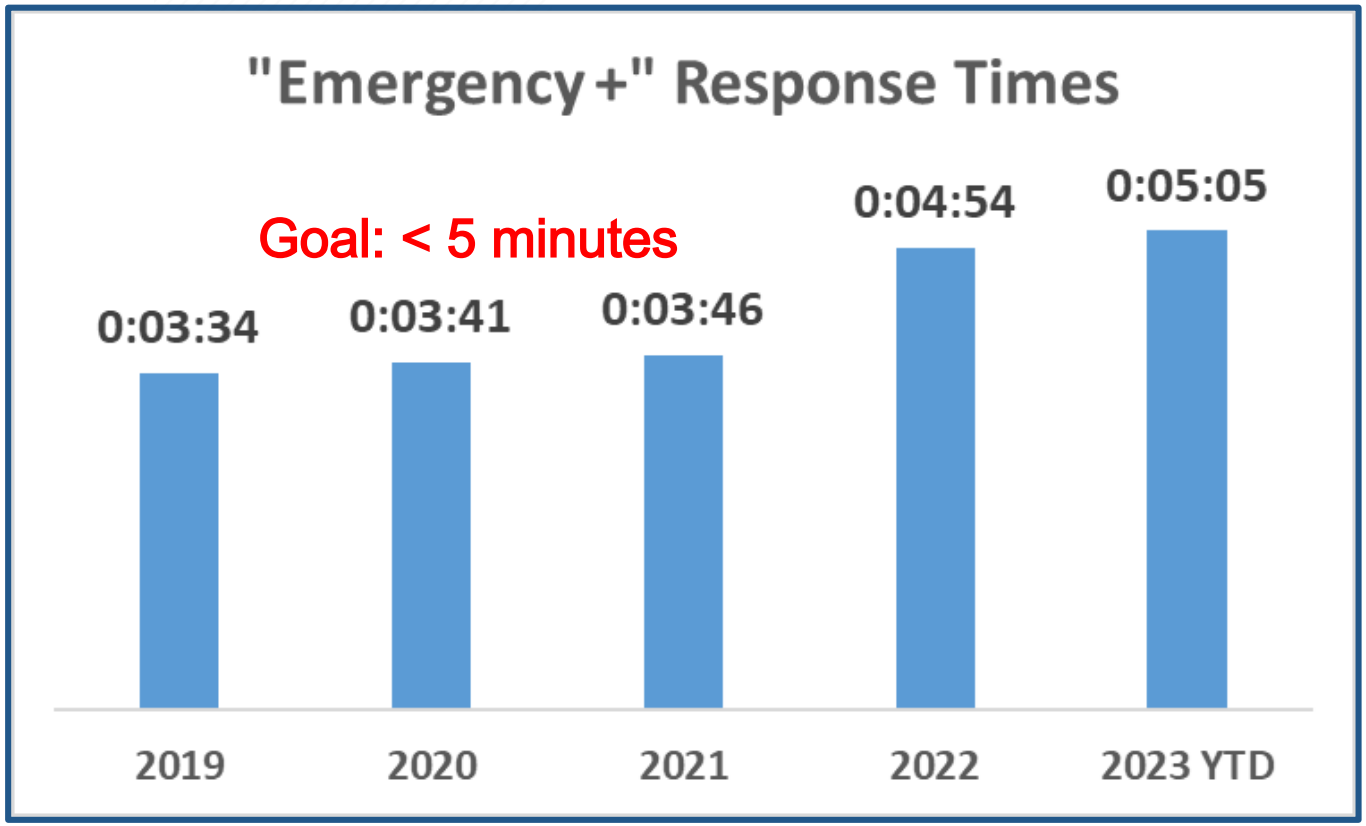
SOME OF OXPD's CHALLENGES

- RECRUITING, HIRING, RETENTION
- SUPPLY CHAIN: VEHICLES
- RADIO INFRASTRUCTURE
- TECHNOLOGY SUPPORT
- MAINTAINING RESPONSE TIMES

MAINTAIN 911 EMERGENCY RESPONSE TIME







OFFICER CONTACTS WITH EMOTIONALLY DISTURBED PERSONS

- Increasing frequency
- In crisis and/or under the influence
- Volatile / aggressive behavior
- Armed with weapons / hazardous implements
- De-escalation, tactical disengagement

OFFICER CONTACTS WITH EMOTIONALLY DISTURBED PERSONS

OFFICER CONTACTS WITH EMOTIONALLY DISTURBED PERSONS

INDEPENDENT REVIEW

OIR GROUP **will review:**

Policies, procedures, established practices, training:

- De-escalation
- Encountering emotionally disturbed persons
- De-escalation: training and emphasis within the agency
- Tactical communications
- Crisis Intervention Training
- Crisis Intervention Officer deployment
- Use of the Ventura County Crisis Response Team
- Officer-clinician partnerships
- Tracking de-escalation

https://www.oirgroup.com/

OVERDOSES

2021

Oxnard PD responded to 248 overdose calls
(82 fatal, 50 of these were opioid related)

2022

Oxnard PD responded to 287 overdose calls
(71 fatal, 56 of these were opioid related)

Naloxone (Narcan) applications by OXPD

2020: 17
2021: 64
2022: 58
2023: 55 as of August 8

WHAT OUR OFFICERS ENCOUNTER

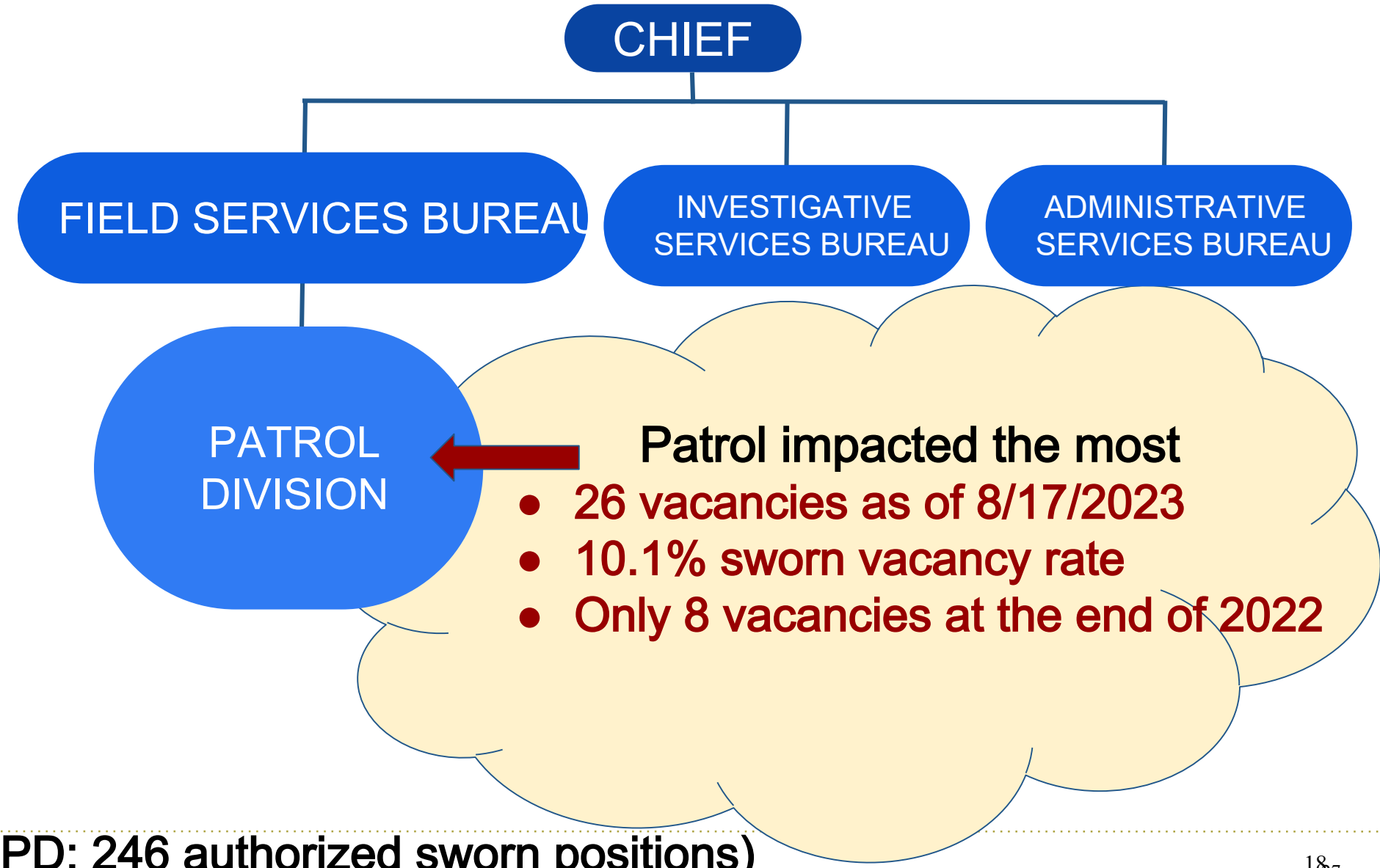
STAFFING

OXNARDPD.ORG
CHIEF

OXNARD POLICE
DEPARTMENT
OXNARD POLICE
DEPARTMENT

OXNARD POLICE
DEPARTMENT
OXNARDPD.ORG
OXNARD POLICE
DEPARTMENT
OXNARD POLICE
1903

STAFFING CHALLENGES CONTINUE



(PD: 246 authorized sworn positions)

RECRUITMENT & HIRING CHALLENGES

- COVID-19 pandemic ripple effect
- *The Great Resignation*
- *Defund the Police* movements
- Diminished appeal
- Generational differences
- Lack of qualified applicants
- Limits of local hiring pool
- Competition with other agencies
  - Hiring incentives (signing bonuses)
  - Wellness programs (physical fitness, emotional wellness)
  - Other benefits (tuition reimbursement)

OXNARD POLICE DEPARTMENT
JOIN THE TEAM!
HIRING NOW
APPLY TODAY @ JOINOXNARDPD.COM
#OXNARDPD
QUESTIONS? CALL 805-385-8300

OXNARD POLICE DEPARTMENT
OXNARD POLICE
GATEWAY TO THE CHANNEL ISLANDS
1903
POLICE OFFICER
OXNARD POLICE
1903
JOIN THE TEAM
ANNUAL SALARY RANGE: $80,110-$125,338
plus incentives QUESTIONS? CALL (805)385-8300
HIRING NOW!

OXNARD POLICE DEPARTMENT

STRAIGHT TO YOU

FACEBOOK LIVE

HIRING

Questions & Answers

INTERACT WITH US LIVE ON THE OXNARD POLICE DEPARTMENT FACEBOOK PAGE

TUESDAY, 2/15/22, 8:00PM PST

WITH

HIRING SERGEANT
MICHAEL THOMAS

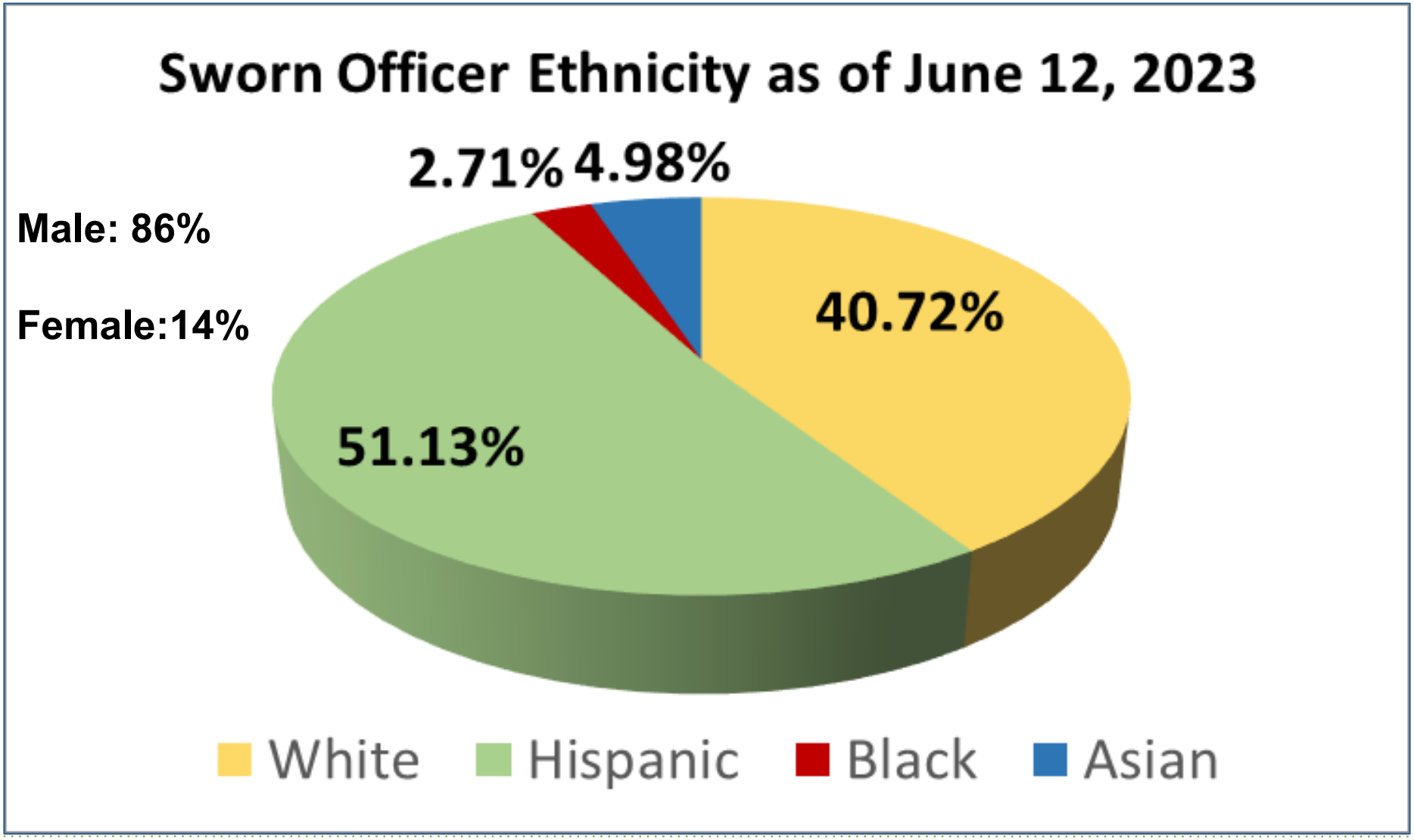
SCHOOL RESOURCE OFFICER
ALVARO PULIDO

FIELD TRAINING OFFICER
ALEX NUNEZ

Oxnard
POLICE OFFICER
OXNARD POLICE
1903
Oxnard Police Department en Español
6.9K followers • 3 following
Following
Message
Search
Posts
About
Mentions
Reviews
Followers
Photos
More

OXNARD POLICE DEPARTMENT
STRAIGHT TO YOU
WOMEN'S HIRING SEMINAR
FACEBOOK LIVE QUESTIONS & ANSWERS
JOIN US LIVE ON THE OXNARD POLICE DEPARTMENT FACEBOOK PAGE
TUESDAY, 5/10/22, 6:00PM PST
WITH
CORPORAL
MEAGAN TOBEY
DISPATCHER
SHARON RADCLIFFE
FIELD TRAINING OFFICER
CATHERINE MOREIRA

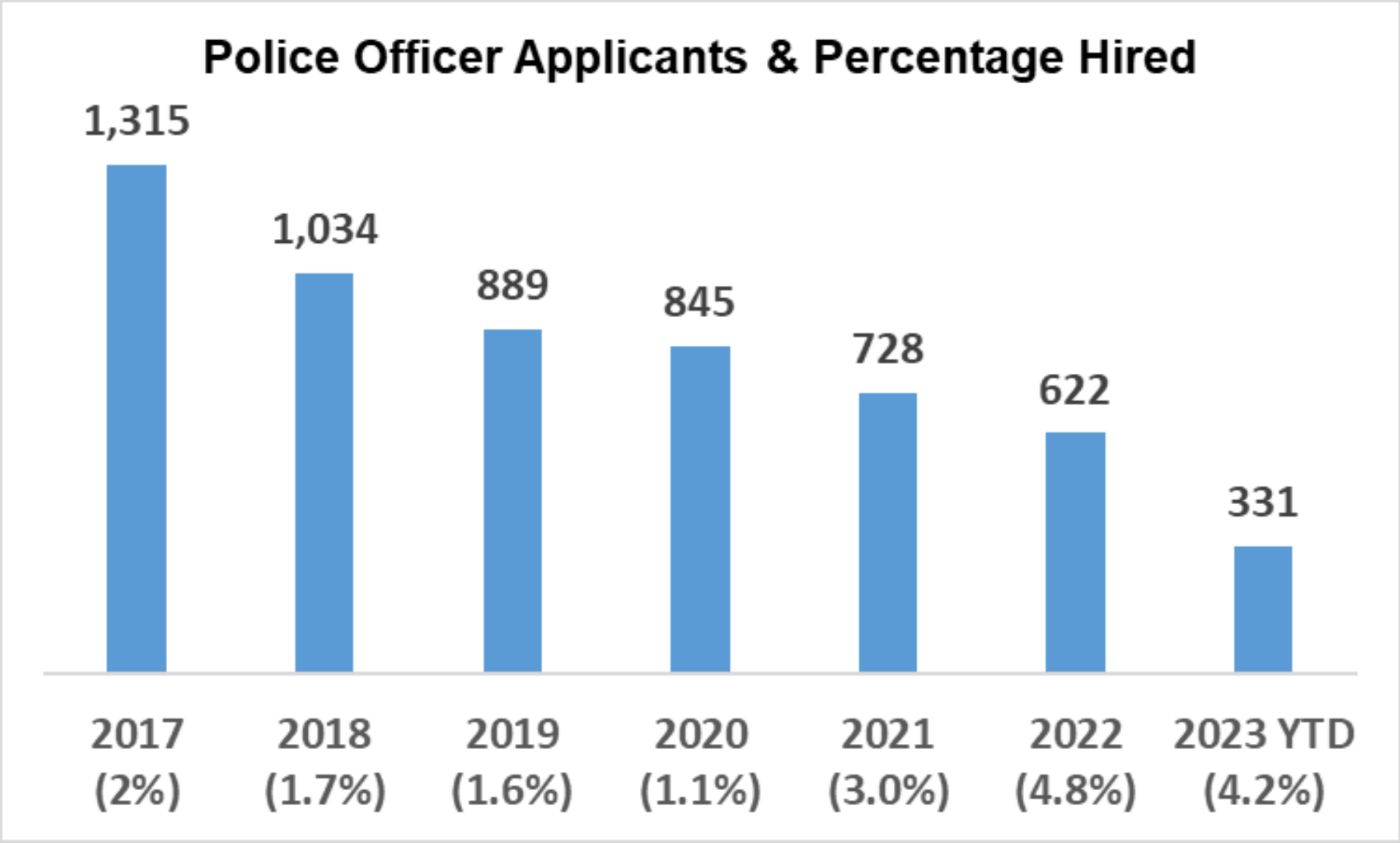
OXPD OFFICER DEMOGRAPHICS



Male: 86%

Female:14%

APPLICANT TREND



ONBOARDING TIME

Entry Level Officers

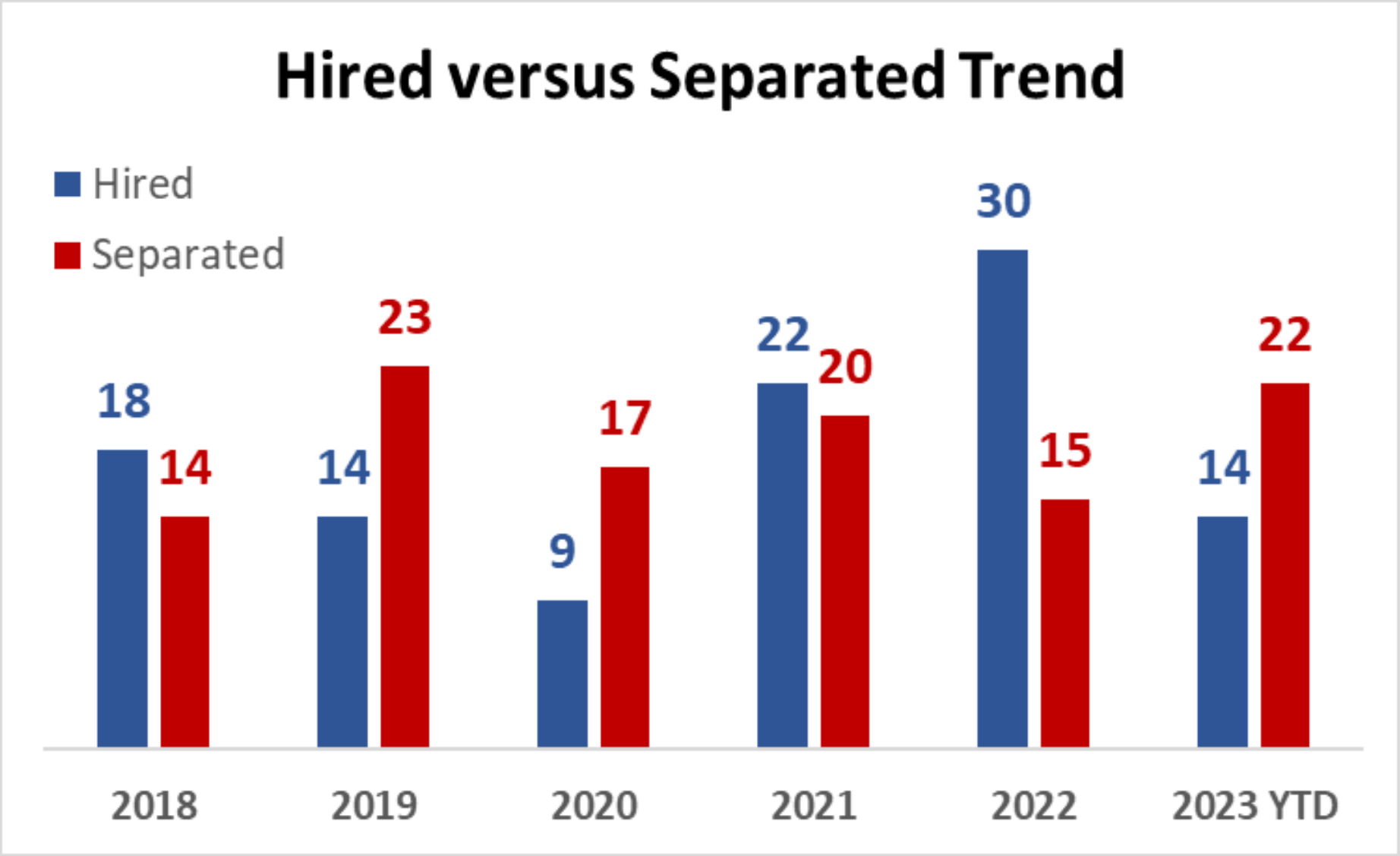
- Application, Testing, Screening (4-5 months)
- *Pre-Academy* (academy preparation) (0.5 months)
- Academy (6.0 months)
- *Post-Academy* (pre-field training) (1.25 months)
- Field Training (5.5 + months)
- Probationary period (1 year from hire date, extendable)

Approximately 18 months from application to "in service"

Dispatchers

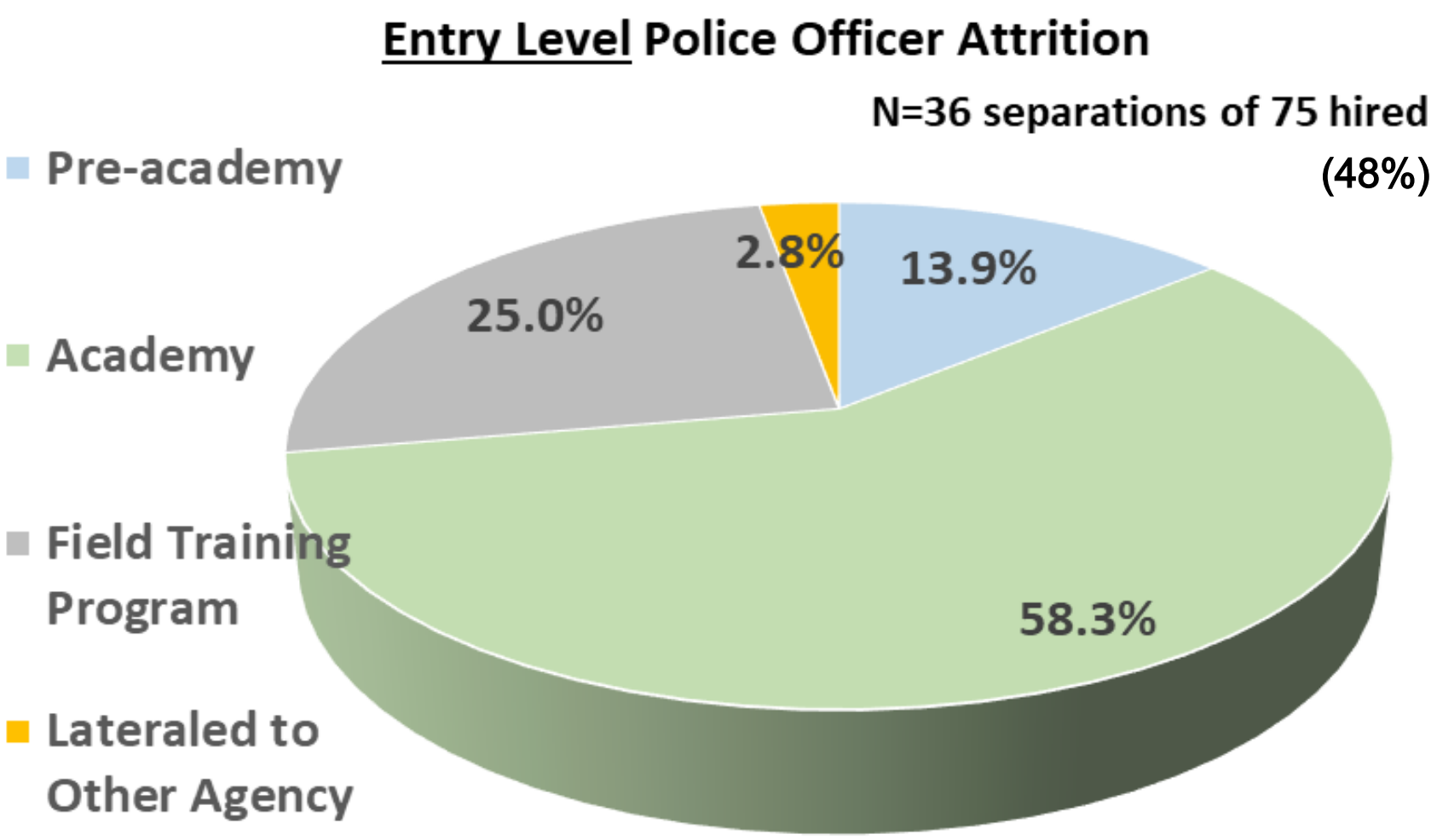
- Application, Testing, Screening (4-5 months)
- Training (1 year)

OFFICER HIRING TREND 2018-2023 YTD



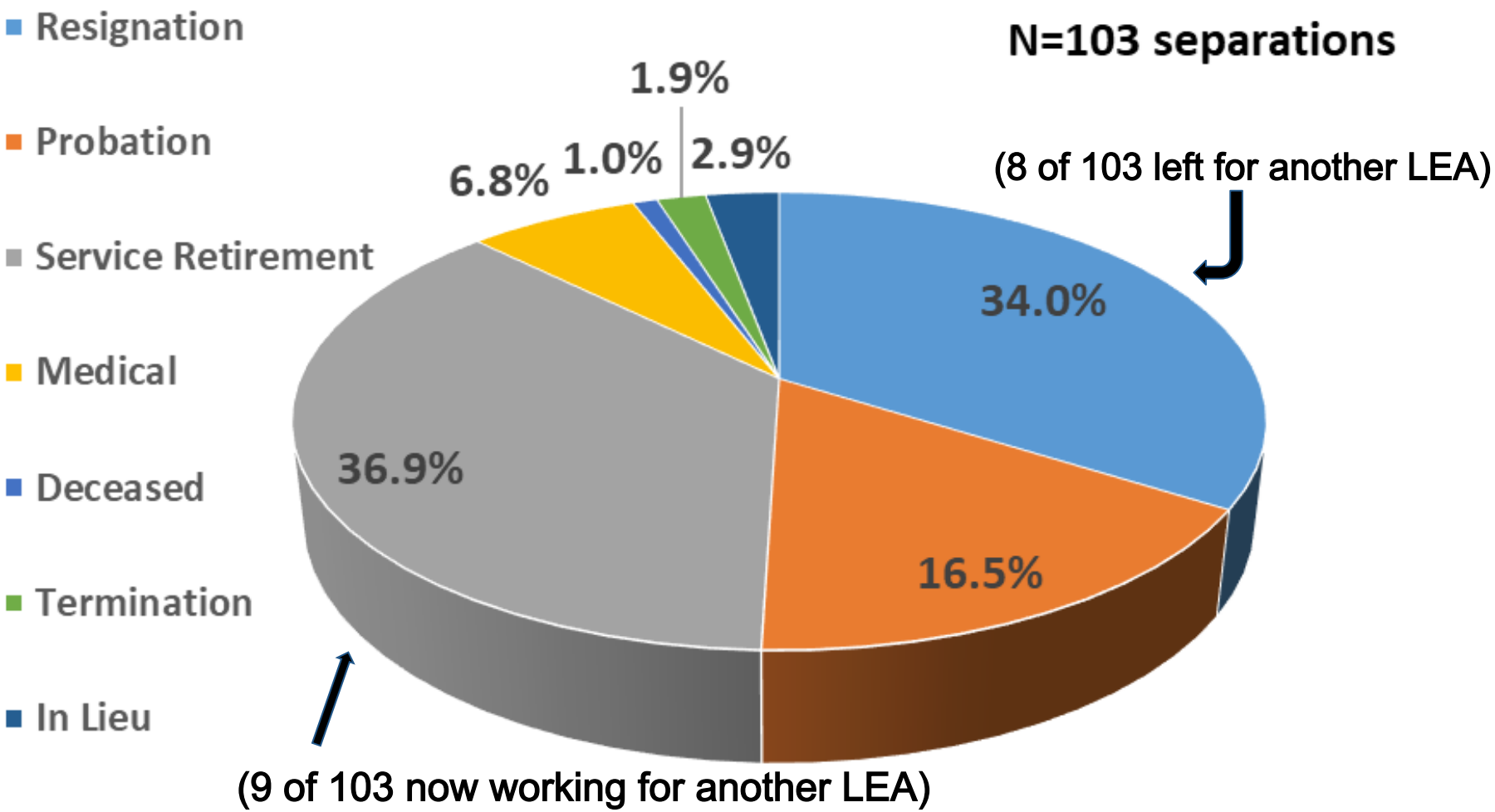
(July 31, 2023)

ENTRY LEVEL OFFICER ATTRITION TREND 2019-2023 YTD*



*(July 31, 2023)

OXPD OFFICER SEPARATION TREND 2019-2023 YTD*



*(July 31, 2023)

FIREWORKS

FIREWORKS ARE ILLEGAL

ALL FIREWORKS ARE ILLEGAL IN OXNARD

POSSESSION, SALES, OR OFFER OF SALES OF FIREWORKS IS A MISDEMEANOR AND CAN SUBJECT VIOLATORS TO ARREST OR FINES OF UP TO $1,000 PER COUNT.

PROPERTY OWNERS AND TENANTS MAY ALSO BE HELD LIABLE FOR FIREWORKS ACTIVITY THAT IS CONNECTED TO THEIR PROPERTY.

Oxnard City Code 7-147.1(B) and 7-147.1(B)(2)

TO REPORT FIREWORKS DISTURBANCES CALL

(805) 385-7740

GOOD NEIGHBOR CAMPAIGN

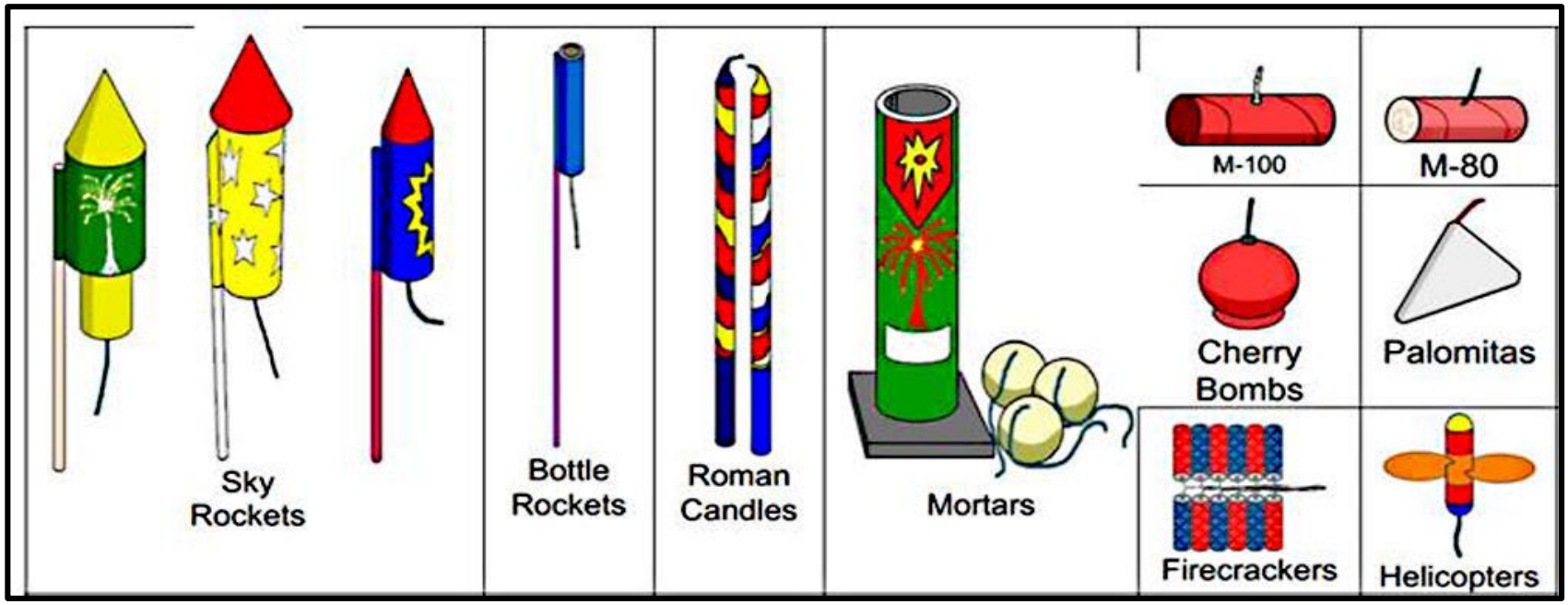
FUEGOS ARTIFICIALES SON ILEGALES

Types of Fireworks

"**Safe and sane**" 12529 H&S

"**Dangerous**" fireworks: 12505 H&S

- *"Explode, skip, fly, travel, or dart"*



IMPACTS

- Disturbs personal peace and wellbeing
- Effects on people
- Effects on pets and animals
- Fire risk
- Injury / fatality risk

A LONG LIST OF CHALLENGES

- Fireworks are easily obtained
- Nationwide culture that embraces fireworks
- Community is divided on the issue
- Disturbs personal peace, callers often angry (on social media too)
- Need to be in a position to enforce (see it / have enough info to act upon)
- Most callers provide minimal information
- Competes with call volume (emergencies)
- The surge of fireworks calls strains police resources (9-1-1)
- Officer safety (crowds, intoxicated people, fleeing or resistive)
- Competing priorities: limited resources allocated to address: holiday call volume, crime trends, DUI enforcement, *Fireworks by the Sea* event
- Expectations often unreasonable (checkpoints, higher fines, jail, etc.)

OXNARD CITY CODE AND FINES

<u>Civil citations (“*preponderance of evidence*”)</u>

Oxnard City Code 7-147.1 (B)

Possession of <u>safe and sane fireworks</u>

- $250 fine

Oxnard City Code 7-147.1 (B)

Possession of <u>dangerous fireworks</u>

- $1,000 fine

Q: Why aren’t the fines higher?

A: $1,000 is the maximum fine amount allowable by state law!

Q: Why don’t you just arrest them?

A: While someone is being arrested the officers are out of service in the field.

HOST LIABILITY ORDINANCE AND FINES

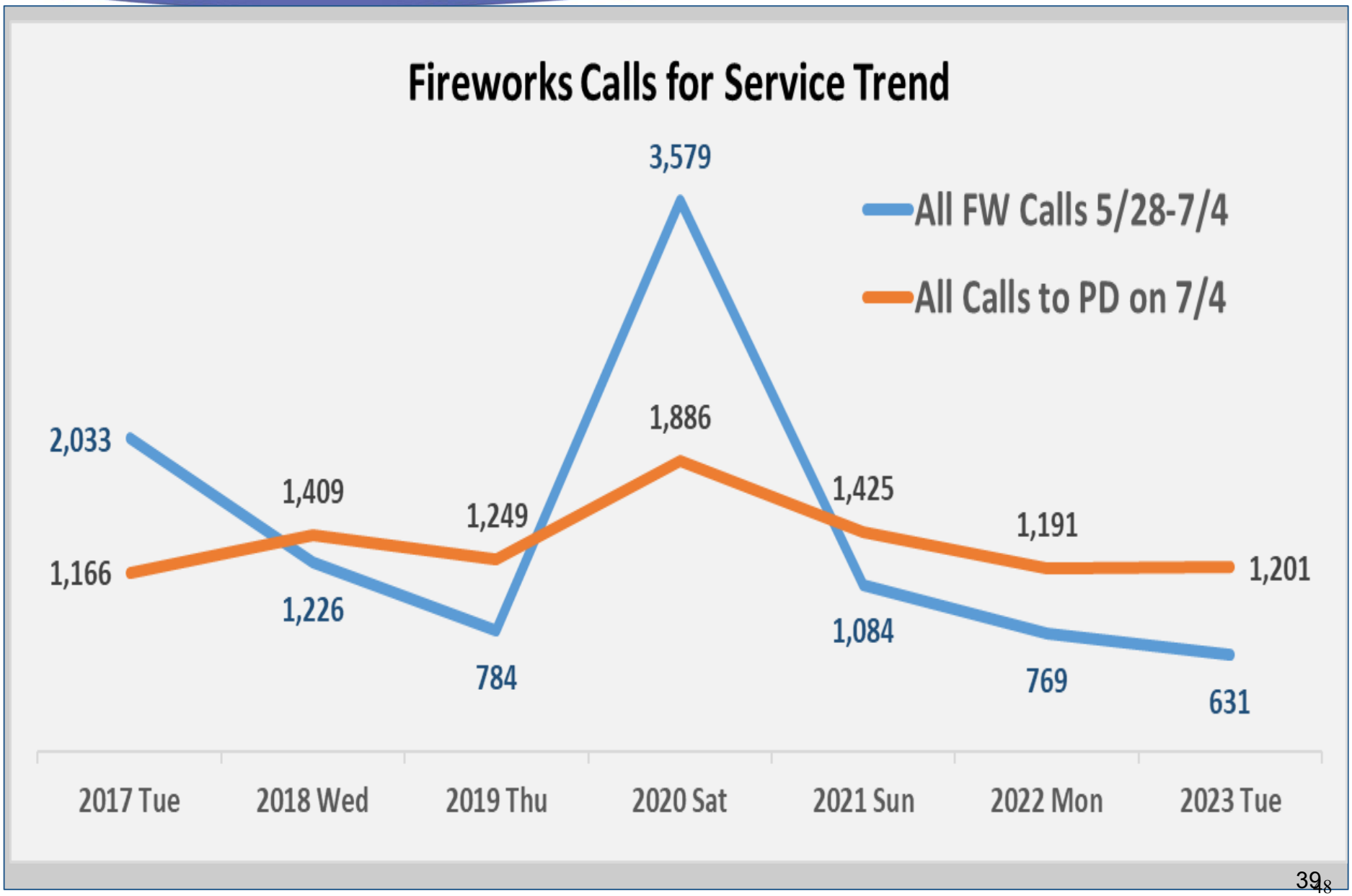
Introduced in 2018:

7-147.1(B)(2): "Except as authorized by the fire chief in accordance with the currently adopted California Fire Code, no property owner or tenant shall allow or permit the sale, offer to sell, use or possession of fireworks on their property when the property owner or tenant knows or should know of the sale, offer to sell, use or possession of fireworks at the property."

Violators of the ordinance would be fined:

- $250 for the first violation, if the involved fireworks are classified as "safe and sane."
- $500 for the second violation within twelve (12) months of the first violation.
- $1,000 per offense related to "dangerous fireworks."
- $1,000 for each subsequent violation within twelve (12) months of the first violation.

FIREWORKS STATISTICS



2023 FIREWORKS MITIGATION EFFORT

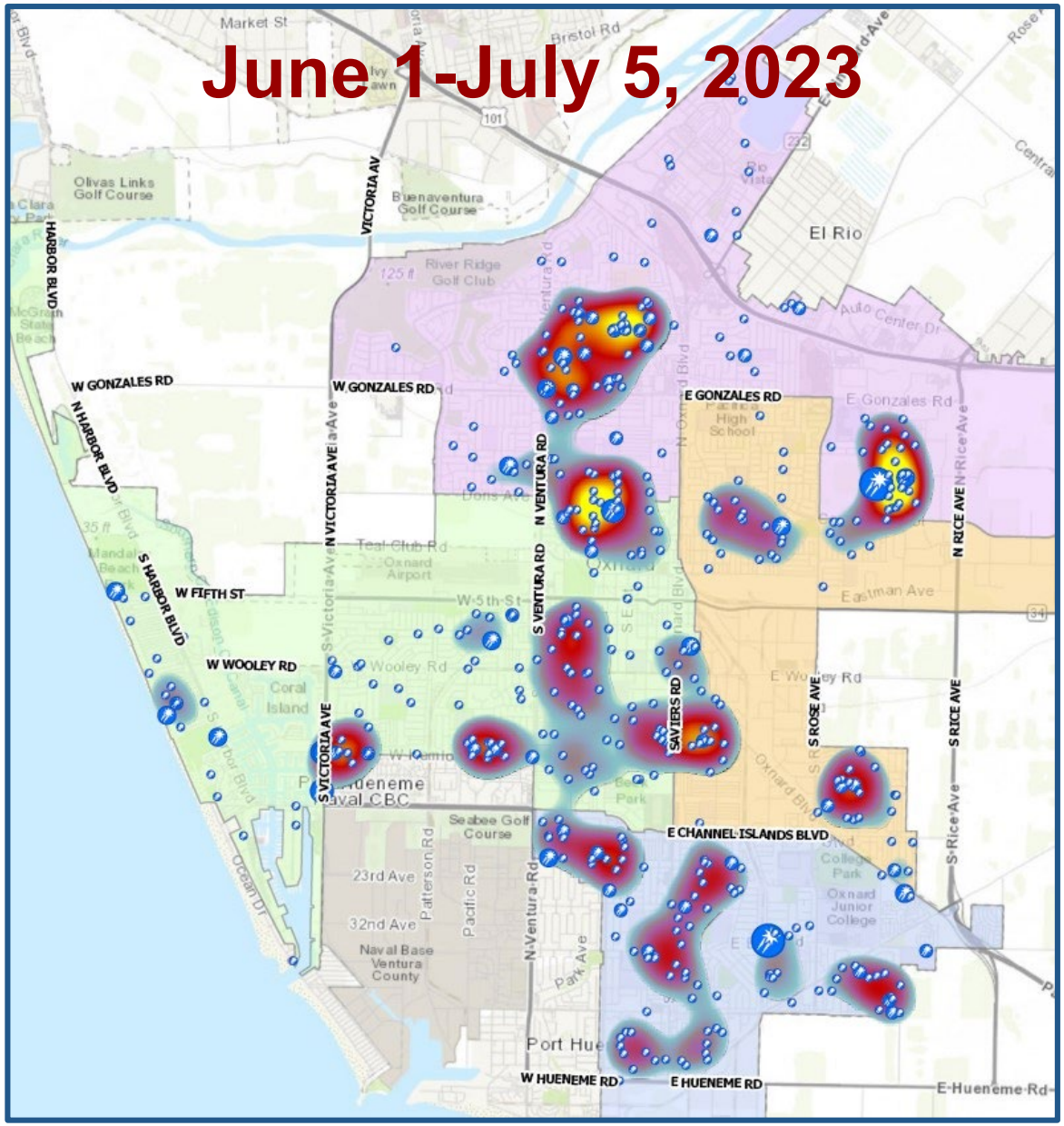
Team effort between PD, FD, Code Compliance

- News releases
- Social media (videos, animal safety info, reporting, fines)
- Tip lines/email
- Warning letters
- Message trailer deployments
- Enhanced staffing

Fireworks activity reporting
Hotline: **(805) 394-5884**
Email: fireworks@oxnardpd.org

2023 FIREWORKS MITIGATION CAMPAIGN

Data driven deployment

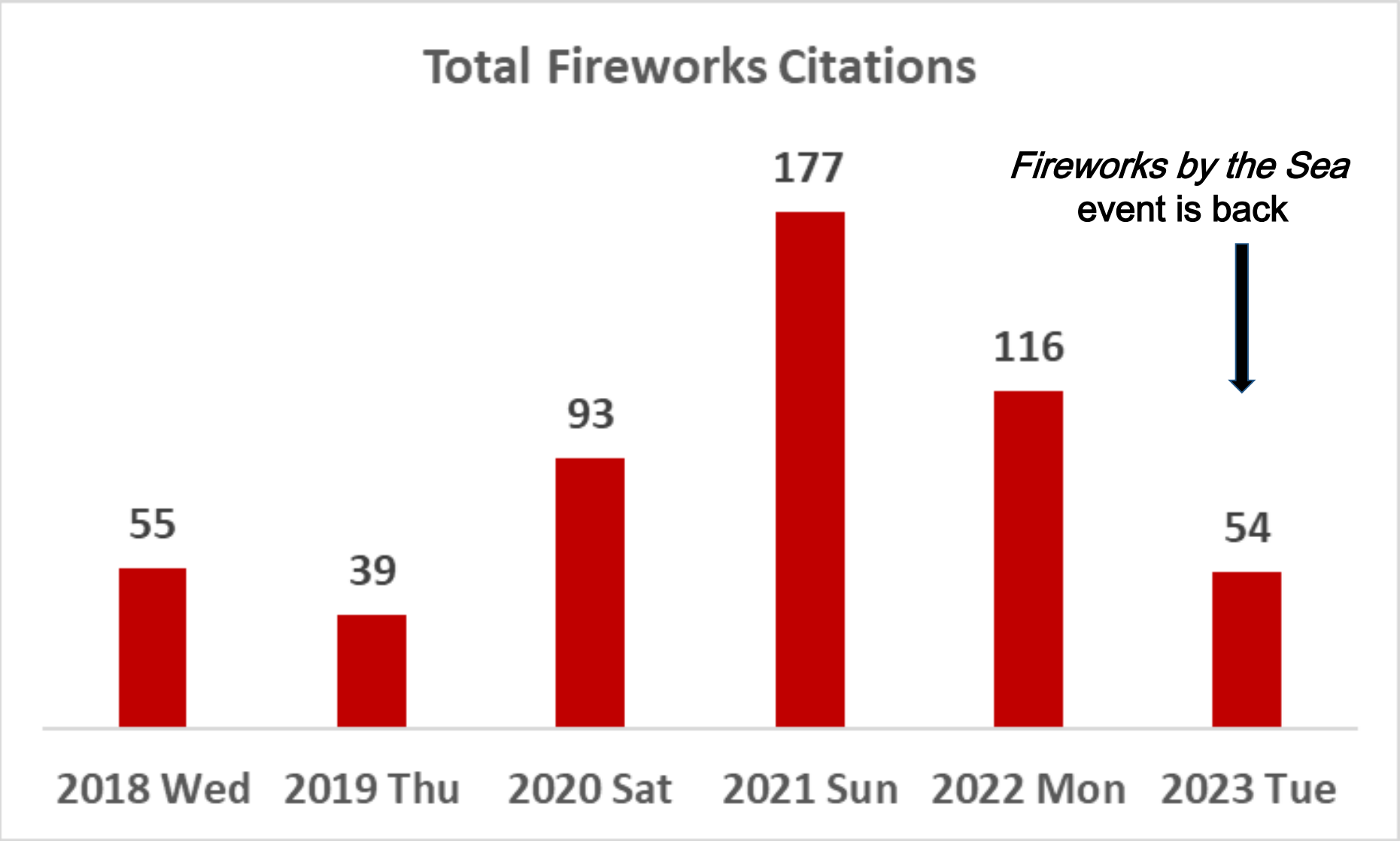


2023 FIREWORKS MITIGATION CAMPAIGN

Search warrant

DRONES AND FIREWORKS ENFORCEMENT

Fireworks Statistics



NOT JUST IN OXNARD!!

UPCOMING EVENTS

September 29 : Ventura County Criminal Justice Training Center academy graduation

September 27: Employee Promotion & Recognition Ceremony

October:

THANK YOU FOR YOUR SERVICE

Commander Alex Arnett

Commander Tim Kelley

END OF UPDATE

CITY COUNCIL AGENDA REPORT

INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. L.1

DATE: September 5, 2023

TO: City Council

FROM: Dee Lai, Assistant City Clerk, (805) 385-8200, dee.lai@oxnard.org

SUBJECT: Approval of Minutes.

RECOMMENDATION

That the City Council approve the minutes of July 5, 18, and 27, 2023, regular meetings as presented.

BACKGROUND

Approval of Minutes.

STRATEGIC PRIORITIES

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

FINANCIAL IMPACT

There is no financial impact.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Dee Lai, Assistant City Clerk

ATTACHMENTS

1. 07 05 2023 Council Minutes
2. 07 18 2023 Council Minutes
3. 07 27 2023 Council Minutes

MINUTES
OXNARD CITY COUNCIL
Regular Meeting
July 5, 2023

A. ROLL CALL, POSTING OF AGENDA

At 4:30 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 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 Basua was absent.

Housing Authority Commissioner Jose Andrade was present and joined the meeting at 6:00 p.m. Housing Authority Commissioner Vega was absent.

Staff members present in person were Alexander Nguyen, City Manager; Ashley Golden, Assistant City Manager; Stephen M. Fischer, City Attorney; Kenneth Rozell, Chief Assistant City Attorney; Michelle (Elle) McCarron, Assistant City Attorney; Jason Benites, Police Chief; Michael Wolfe, Public Works Director; Emilio Ramirez, Housing Director; Terrel Harrison, Cultural, and Community Services Director; Alex Hamilton, Fire Chief; Steve Howlett, Assistant Public Works Director; Pam Morrison, Community Services Manager; Brenda Lopez, Housing Programs Manager; Eric Zetz, Environmental Resources Manager; Tim Beaman, Senior Civil Engineer; Kathleen Mallory, Planning and Sustainability Manager; Robert Ruben, Interim Chief Information Officer; Tai Chau, Supervising Civil engineer; Dee Lai, Assistant City Clerk and Rose Chaparro, City Clerk.

Brian Yanez, Assistant Public Works Director, participated via videoconference.

The following legislative bodies are meeting: the City Council and the Oxnard Housing Authority.

Consideration of Teleconference Participation pursuant to Assembly Bill 2449

B. PUBLIC COMMENTS ON CLOSED SESSION ITEMS

No public comments were received.

C. CLOSED SESSION (4:30 PM)

1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION (Government Code section 54956.9(d)(4))
   Based on existing facts and circumstances, the City Council shall decide whether to initiate litigation in one potential case.

2. PUBLIC EMPLOYEE ANNUAL PERFORMANCE EVALUATION (Government Code section 54957)
   Title: City Attorney
   Legislative Body: City Council

3. PUBLIC EMPLOYEE ANNUAL PERFORMANCE EVALUATION (Government Code section 54957)

Title: City Manager
Legislative Body: City Council

At 4:32 p.m., the City Council recessed into a closed session. At 6:18 p.m., the City Council reconvened in an open session in the Council Chambers. Stephen Fischer, City Attorney announced that the annual performance reviews of the City Attorney and the City Manager were conducted by the Council. Mr. Fischer also reported that the City Council by a vote of 5-1-1, with Madrigal, Perello, Valenzuela Zavala, MacDonald, and Zaragoza voting in favor, Basua absent and Teran recusing himself due to a potential conflict of interest involving the party to the litigation, directed the City Attorney to initiate an action and that the action, the defendants, and the other particulars shall, once unsealed, be disclosed to any person upon inquiry, unless to do so would jeopardize the City's ability to effectuate service of process on one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

D. OPENING CEREMONIES (6:00 PM)

Mayor Zaragoza led the pledge of allegiance.

E. CEREMONIAL ITEMS

1. SUBJECT: Presentation of a Proclamation Designating the Month of July, 2023 as "Parks and Recreation Month."

Mayor Zaragoza read the proclamation and delivered it to Danaly Perez, Olympia Hugo, and Esteban Melchor, Recreation Supervisors, as well as their teams. Parks and Recreation Department staff joined the Council on the dais to accept the proclamation, thanked the Council, and spoke briefly.

Pam Morrison, Manager of Cultural and Community Services; Terrel Harrison, Director of Cultural and Community Services; Steve Howlett, Assistant Public Works Director; and Council members recognized and commended the Parks and Recreation staff for their hard work, devotion, and accomplishments.

No public comments were received.

F. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Public comments were received from Bob Lopez Jr. (City Resolution on abortion), Charles Teachout (City Resolution on abortion), Mary McQuattre (City Resolution on abortion), Nancy Bemis (Sycamore Senior Village apartment), Kurt Meyer (Sycamore Senior Village apartment), Art Santellance (Sycamore Senior Village apartment), Briana Cespedes (abortion), Ricardo Santana Velazquez (new Consulate of Mexico and appreciation to City Council).

G. 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.

The City Manager, Alex Nguyen, provided statistics from the California Department of Education on the Best Schools in Ventura County and the Ventura County School District Performance to offer a comparison of how public school systems in the community and counties surrounding the City of Oxnard are doing. According to Councilmember Madrigal, calculating exam scores and rating schools is a complex task. Councilmembers expressed appreciation to the city manager and Councilmember Madrigal for sharing the information.

No public comments were received.

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

Mayor Zaragoza asked for an update on the fireworks. He added that he received an email from a veteran who suffers from PTSD and is bothered by the noise of the fireworks. He also mentioned that some people were concerned for their pets and dogs.

Police Chief Jason Benites stated that the fireworks issue is not unique to Oxnard and that other cities in California are experiencing the same problem. He estimated that roughly 20,000 people attended the July 4th Fireworks by the Sea at Channel Islands Harbor. From Memorial Day until July 4th, he said, police officers go out and do fireworks enforcement based on information provided by the community, issuing citations to those who are either in possession of fireworks or organizing fireworks activities at their houses. He stated that there is a considerable decrease in calls for service to the dispatch center this year compared to the prior year.

According to Alex Hamilton, Fire Chief, the success they have had in recent years is due to the collaboration of the Police Department, the Fire Department, and the Code Enforcement Department. According to him, the fire service saw a 35% spike in call volume leading up to the weekend. He stated that there was a vehicle fire caused by fireworks, as well as a small fire in the north part of Oxnard that resulted in two minor injuries. He also indicated that there were just about a dozen calls about fireworks.

Councilmember Teran expressed thanks to the Wagon Wheel Neighborhood Council and the River Park Neighborhood Council for their recent meetings, and welcomed the new and returning executive boards. He announced that the Fremont South Neighborhood Council will meet on July 6, 2023, at 6:30 p.m., across the street from the fire station on the corner of 5th and K Street.

Councilmember Madrigal stated that he has no updates to report.

Mayor Pro Tem MacDonald stated that his neighborhood was quiet on July 4th. He reported that the Gold Coast Transit Authority had a meeting earlier today. He commented that there were people holding posters in front of their Auto Center Drive site expressing their dissatisfaction with the wage hours and working conditions. He stated that Gold Coast staff are working to resolve the matter.

Councilmember Perello commended the Fire Department and the Police Department for their efforts throughout the Fourth of July weekend. He stated that the Seaview Neighborhood Council will meet at Sea View Park on Friday, July 28th, at 6:00 p.m. He said it was going to be an election meeting.

Councilmember Valenzuela stated that he has no updates to report.

I. REVIEW OF INFORMATION/CONSENT AGENDA

Items K-1 through K.10 were discussed among the Council and staff.

J. PUBLIC COMMENTS ON INFORMATION/CONSENT AGENDA

Public comments were received from Pat Brown (K.2, K.3, and K.6), and Teresa Clemen (K.3).

K. INFORMATION/CONSENT AGENDA

1. City Clerk Department

SUBJECT: Approval of Minutes.
RECOMMENDATION: That the City Council approve the minutes of the May 16, 2023 and June 6, 2023 regular meetings as presented.

2. Community Development Department
SUBJECT: Grant Application for the Southern California Association of Governments, Regional Early Action Planning Grant to Promote Housing Infill on Public and Private Lands.
RECOMMENDATION: That the City Council adopt a **Resolution No. 15,725**:

1. Authorizing the City Manager to apply for the Southern California Association of Governments, Regional Early Action Planning Grant to Promote Housing Infill on Public and Private Lands, to be used for the development of a Transit Oriented Development/High Quality Transit Corridor Program;
2. Authorizing the City Manager or designee to execute grant agreements and appropriate funds upon confirmation of the grant award;
3. Authorizing the Chief Financial Officer or designee to submit financial reports and grant claims and approve budget appropriations for the use of the grant funds; and
4. Authorizing the City Manager or designee to submit all program-related progress or status reports.

3. Community Development Department
SUBJECT: Adoption of Ordinance No. 3029 - Approving Compliance Fees for Firearms, Alcohol, Cannabis, and Tobacco Businesses.
RECOMMENDATION: That the City Council:

1. Adopt **Ordinance No. 3029** titled "Ordinance of the City of Oxnard, California adding Sections 13-1 and 13-2 to Article 1 of Chapter 13 of the Oxnard City Code Reflecting the City Council Approved Compliance Fees for Firearms, Alcohol, Cannabis, and Tobacco Businesses"; and
2. Find that the proposed ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15378(b)(4) of the CEQA Guidelines.

4. Housing Department
SUBJECT: First Amendment to Agreement A-8512 for Plaza Vista Apartments Drain Line Project.
RECOMMENDATION: That the Board of Commissioners of the Housing Authority of the City of Oxnard approve and authorize the execution of a First Amendment to Agreement A-8512 with Oscalibur Plumbing, Inc. in the amount of $204,559.63 for a total agreement value of $472,032.55 using funds appropriated from the 2020 Capital Fund grant.

(This item did not originate in Committee. This amendment is necessary for the completion of the project underway to replace the drain line system at the Plaza Vista public housing site. The funding is included for the agreement and the amendment in the adopted Capital Fund Program 5 Year Action Plan. The terms of the original agreement were considered by the Community Services, Public Safety, Housing & Development Committee on January 24, 2023.)

5. Public Works Department

SUBJECT: First Amendment to Agreement 9721-22-FN with Salado Enterprises for the Citywide Vehicle Mobile Washing and Detailing Services.
RECOMMENDATION: That the City Council approve and authorize the Mayor to execute a First Amendment to Agreement with Salado Enterprises in the amount of $175,000 for a new total not to exceed $375,000 for an additional period of 12 months for the Citywide Vehicle Mobile Washing and Detailing Services.

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

6. Public Works Department
SUBJECT: Purchase Order with Safety Network Traffic Signs, Inc. for Finished Street Signs.
RECOMMENDATION: That the City Council approve and authorize the Purchasing Manager to execute a Purchase Order with Safety Network Traffic Signs, Inc. for finished street signs in the amount not to exceed $750,000 for a five-year term ending on June 30, 2028.

(Public Works and Transportation Committee approved 3-0)

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

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

8. Public Works Department
SUBJECT: Public Project Agreement 32400021 with Best Drilling and Pump, Inc. for Well 20 Rehabilitation Project, Specification No. PW 23-98.
RECOMMENDATION: That the City Council approve and authorize the following for a total of $648,648 in Project funds for the Well 20 Rehabilitation Project, (No. C2401):

1. Execute an Agreement with Best Drilling and Pump, Inc. in the amount of $540,540 for the Project;
2. Authorize a Project contingency amount of $54,054 (10%) with Best Drilling and Pump, Inc. for a total not to exceed value of $594,594 for the Project;
3. A Project allocation amount of $54,054 for engineering, inspection, survey and project management for the Project; and
4. Approve appropriations of $650,000 in fiscal year 2023-24 from the available fund balance in the Water Operating Fund (601) (and the corresponding appropriation and transfer in revenue in the Water Capital Fund 602) for the use of this 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.

Consent Items K.1, K.2, K.3, K.5, K.6, K.7, and K.8:
It was moved by Councilmember Perello, seconded by Councilmember Madrigal, to approve the recommended action as presented. VOTE: Madrigal, Perello, Teran, Valenzuela Zavala, MacDonald, and Zaragoza voted in favor; the motion passed 6-0-1. Councilmember Basua was absent.

Housing Authority Consent Item K.4:
It was moved by Councilmember Perello, seconded by Councilmember Madrigal, to approve the recommended action as presented. VOTE: Madrigal, Perello, Teran, Valenzuela Zavala, MacDonald, Zaragoza and Housing Authority Commissioner Andrade voted in favor; the motion passed 7-0-2.
Councilmember Basua and Housing Authority Commissioner Vega were absent.

L. REPORTS

1. Housing Department
SUBJECT: Proposal for Foul Weather Sheltering from the Commission on Homelessness. (10 minutes)
RECOMMENDATION: That City Council determine:

1. If it wishes to create a Foul Weather Shelter Pilot Program; and
2. If the City Council elects to create a Foul Weather Shelter Pilot Program, determine if the funding source will be General Fund or Community Development Block Grant funds.

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

Emilio Ramirez, Housing Director, presented and answered the Council's questions. Public comments were received from Leona Rollins, Theresa Clemen, and Yukio Okano. Discussion ensued among the Council and staff.

It was moved by Councilmember Teran, seconded by Mayor Pro Tem MacDonald, to approve the Foul Weather Shelter Pilot Program using the General Fund, with staff directed to look into extending the operating period. VOTE: Madrigal, Perello, Teran, Valenzuela Zavala, MacDonald, and Zaragoza voted in favor; the motion passed 6-0-1. Councilmember Basua was absent.

2. Public Works Department
SUBJECT: Sixth Amendment to Agreement A-8094 with WKE, Inc., Union Pacific Railroad Public Highway Overpass Agreement A-8257, and Resolution for Section 190 Grade Separation Program funding for Rice Avenue at Fifth Street/State Route 34 Grade Separation. (10 minutes)
RECOMMENDATION: That the City Council:

1. Approve and authorize the execution of a Sixth Amendment with WKE, Inc. in the amount of $376,898.07, for a new not to exceed contract value of $9,877,855.25 to complete the Plans, Specifications and Estimates for the Rice Avenue at Fifth Street/State Route 34 Grade Separation, Project No. C1301/133101;
2. Approve and authorize the Mayor to execute the Union Pacific Railroad Public Highway Overpass State Agreement No. 07R292, upon receipt from Caltrans; and
3. Adopt a **Resolution No. 15,726** authorizing the City Manager to file an application request to the Department of Transportation for Section 190 Grade Separation Program funds.

(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.)

Michael Wolfe, Public Works Director, presented and answered the Council's questions. Public comments were received from Pat Brown and Theresa Clemen. Discussion ensued among the Council and staff.

It was moved by Mayor Pro Tem MacDonald, seconded by Councilmember Velenzuela Zavala, to approve the recommended action as presented. VOTE: Madrigal, Perello, Teran, Valenzuela Zavala, MacDonald, and Zaragoza voted in favor; the motion passed 6-0-1. Councilmember Basua was absent.

3. Public Works Department
SUBJECT: Third Amendment to Professional Services Agreement A-8294 with Brown and Caldwell for Primary Clarifiers and Activated Sludge Basins Improvement Project PW 21-17. (10 minutes)
RECOMMENDATION: That the City Council approve and authorize the execution of a Third Amendment to a Professional Services Agreement with Brown and Caldwell to increase the not to exceed amount from $1,212,473 to $1,349,868 for additional design work required for the Primary Clarifiers & Activated Sludge Improvements.

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.

Michael Wolfe, Public Works Director, presented and answered the Council's 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: Madrigal, Perello, Teran, Valenzuela Zavala, MacDonald, and Zaragoza voted in favor; the motion passed 6-0-1. Councilmember Basua was absent.

4. Public Works Department
SUBJECT: First Amendment to Professional Services Agreement A-8415 with AECOM Technical Services, Inc. for On-Call Utility Engineering Services. (10 minutes)
RECOMMENDATION: That the City Council approve and authorize the Mayor to execute a First Amendment to an Agreement with AECOM Technical Services, Inc. (AECOM) to increase the not to exceed amount from $500,000 to $1,500,000 and extend the term to February 28, 2026 for On-Call Utility Engineering Services.

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

Michael Wolfe, Public Works Director, presented and answered the Council's questions. No public comments were received. Discussion ensued among the Council and staff.

It was moved by Mayor Zaragoza, seconded by Councilmember Perello, to approve the recommended action as presented. VOTE: Madrigal, Perello, Teran, Valenzuela Zavala, MacDonald, and Zaragoza voted in favor; the motion passed 6-0-1. Councilmember Basua was absent.

M. ADJOURNMENT

There being no further business on the agenda, and without objection, Mayor Zaragoza adjourned the meeting at 8:17 p.m.

DEE LAI

Interim City Clerk

JOHN C. ZARAGOZA

Mayor

MINUTES
OXNARD CITY COUNCIL
Regular Meeting
July 18, 2023

A. ROLL CALL, POSTING OF AGENDA

At 5:00 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 Basua arrived at 5:40 p.m.

Councilmember Teran attended this meeting remotely from the Comfort Suites (Business Center), 210 E. Acequia Avenue, Visalia, CA 93291. Due to emergency circumstances, Mayor Pro Tem MacDonald participated remotely.

Staff members present in person were Alexander Nguyen, City Manager; Shiri Klima, Deputy City Manager; Stephen M. Fischer, City Attorney; Kenneth Rozell, Chief Assistant City Attorney; Jason Benites, Police Chief; Michael Wolfe, Public Works Director; Joseph Marcinko, Steve Howlett, Assistant Public Works Director; Javier Chagoyen-Lazaro, Interim Chief Financial Officer; Denise Morehouse, Assistant Police Chief; Philip Schwieder, Streets Division Manager; John Colamarino, Assistant Fire Chief; Michelle McCarron, Assistant City Attorney; Tim Beaman, Senior Civil Engineer; Luis McArthur, Police Commander; Dee Lai, Assistant City Clerk; and Rose Chaparro, City Clerk.

Staff members present virtually were Nikolas Boas, Supervising Civil Engineer; Brian Yanez, Assistant Public Works Director; and Taylor Gambino, Civil Engineer;

The following legislative bodies are meeting: City Council
CONSIDERATION OF TELECONFERENCE PARTICIPATION PURSUANT TO ASSEMBLY BILL 2449:

It was moved by Councilmember Perello, seconded by Councilmember Valenzuela Zavala, to approve the remote participation. VOTE: Madrigal, Perello, Teran, Valenzuela Zavala, and Zaragoza voted in favor; the motion passed 5-0-1-1. Councilmember Basua was absent. Mayor Pro Tem MacDonald abstained. He disclosed that it was due to medical reason for his request to participate remotely and that no other individuals were present in the room from which he was attending.

B. PUBLIC COMMENTS ON CLOSED SESSION ITEMS

No public comments were received.

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

At 5:06 p.m., the City Council recessed into a closed session. At 5:56 p.m., the City Council reconvened in an open session in the Council Chambers. The City Attorney announced that no reportable actions came out of the closed session.

D. OPENING CEREMONIES

Councilmember Basua led the pledge of allegiance.

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.

Mayor Zaragoza read the Commendations and delivered them to Ella Ochoa and Monica Adrian. Ella Ochoa and Monica Adrian joined the Council on the dais to accept the Commendations, thanked the Council, and spoke briefly.

Public comment was received from Barbara Macri-Ortiz.

2. SUBJECT: Presentation of a **Resolution No. 15,727** Commending Maria Herrera for thirty-eight years of exemplary service to the City of Oxnard.

Mayor Zaragoza read the Resolution and delivered it to Maria Herrera. Maria Herrera joined the Council on the dais to accept the Resolution, thanked the Council, and spoke briefly.

No public comments were received.

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; the motion passed 7-0.

3. SUBJECT: Update by Oxnard-Ocotlan Sister Cities Committee Visitation.

Dorina Padilla, Priscilla Herrera, Carol Beck, and Bruce Beck joined the Council at the dais and gave an update

on the Oxnard-Ocotlan Sister Cities Committee Visitation. The 59th visitation will take place from August 2, 2023, to August 8, 2023, as announced by Dorina Padilla. The opening ceremony will take place on August 3, 2023, at 10:00 a.m. in Plaza Park, and she sent an invitation to the council members, city officials, the Oxnard community, and the larger Ventura County community. Mayor Zaragoza, Mayor Pro Tem MacDonald, Lorraine MacDonald, Amazon, Channel Islands Boating Center, Oxnard City Council, the City Manager's office, Oxnard City Corp, Oxnard Visitors Conventions Bureau, Oxnard Fire, Oxnard Police, and Gary Blum from Oxnard Downtowners were among the individuals she thanked for their support.

F. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Public comments were received from Roberto Salazar (unpermitted vendors), and Theresa Clemen (Public restrooms at College Park).

G. REPORT OF CITY MANAGER/EXECUTIVE DIRECTOR/SECRETARY

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.

The National Night Out event will be held on August 1, 2023, according to City Manager Alex Nguyen. He added that six neighborhoods are organizing events that will begin at various times. He stated that Community Action of Ventura County will continue to assist with utility bill payments. Alex presented a breakdown of Oxnard citizens' educational attainment under local government fun facts.

No public comments were received.

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

Mayor Pro Tem MacDonald announced that a tentative labor agreement on labor problems has been reached between the Local Teamsters Union and Gold Coast Transit. He stated that he anticipates a special meeting to assess the contract status and settle the issue.

Councilmember Teran expressed his appreciation for being able to participate in the meeting remotely while traveling for his full-time day job.

Despite the fact that it is not as hot in Oxnard, Councilmember Madrigal advised everyone to be safe and hydrated.

Councilmember Basua stated that she has no updates to report.

Councilmember Perello stated that the Golden Future 50+ Senior Expo will be held on July 27, 2023, from 9:00 a.m. to 1:30 p.m., at the Oxnard Performing Arts & Convention Center, 800 Hobson Way. Adults aged 50 and up are admitted free. He thanked the speaker, Roberto Salazar, who spoke about Oxnard's unlicensed food vendors. He requested that city employees follow up with Roberto with information.

Mayor Zaragoza stated that he has no updates to report.

Councilmember Perello and Mayor Zaragoza spoke about the positive performance evaluations given to the City Manager and City Attorney during the 7/5 Council meeting.

I. REVIEW OF INFORMATION/CONSENT AGENDA

Items K-1 through K.10 were discussed among the Council and staff.

J. PUBLIC COMMENTS ON INFORMATION/CONSENT AGENDA

Public comments were received from Pat Brown (K.2 and K.5), and Teresa Clemen (K.7).

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.

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.)

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.)

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 No. 15,728**:

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.)

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.)

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.

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.)

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 No. 15,729** declaring the intent of the City to be reimbursed for certain capital expenditures from the proceeds of indebtedness.

Consent Items K.1, K.2, K.3, K.4, K.5, K.7, K.8
It was moved by Councilmember Basua, seconded by Councilmember Madrigal, to approve the recommended action as presented. VOTE: Basua, MacDonald, Madrigal, Perello, Teran, Valenzuela Zavala, and Zaragoza voted in favor; the motion passed 7-0.

Consent Item K.6
It was moved by Councilmember Basua, seconded by Councilmember Madrigal, to approve the recommended action as presented. VOTE: Basua, MacDonald, Madrigal, Valenzuela Zavala, and Zaragoza voted in favor; the motion passed 5-1-1. Councilmember Teran recused himself because of a professional conflict with the Oxnard Union High School District. Councilmember Perello voted no.

L. PUBLIC HEARINGS

1. 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 No. 3030** 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.

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

Mayor Zaragoza opened the public testimony portion of the public hearing. Public comment was received from Pat Brown.

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; the motion passed 7-0.

M. REPORTS

1. 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 No. 15,730**:

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.)

Michael Wolfe, 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 Teran, to approve the recommended action as presented. VOTE: Basua, Madrigal, Perello, Teran, Valenzuela Zavala, and Zaragoza voted in favor; the motion passed 6-0-1. Mayor Pro Tem MacDonald recused himself due to a conflict with his residence being located 1 block from the Campus Park project.

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 No. 15,731**:

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.)

Michael Wolfe, Public Works Director, Steve Howlett, Assistant Public Works Director, and Eric Humel, Grants Coordinator 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, Madrigal, Perello, Teran, Valenzuela Zavala, and Zaragoza voted in favor; the motion passed 6-0-1. Mayor Pro Tem MacDonald was absent for the vote.

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.)

Brian Yanez, Assistant Public Works Director, and Philip Schwieder, Streets Division Manager, 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, Madrigal, Perello, Teran, Valenzuela Zavala, and Zaragoza voted in favor; the motion passed 6-0-1. Mayor Pro Tem MacDonald was absent for the vote.

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 No. 15,732** Authorizing Examination of Sales, Transactions and Use Tax Records to MuniServices, LLC.

Javier Chagoyen-Lazaro, Interim Chief Financial Officer 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, Madrigal, Perello, Teran, Valenzuela Zavala, MacDonald and Zaragoza voted in favor; the motion passed 7-0.

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.

Javier Chagoyen-Lazaro, Interim Chief Financial Officer presented and answered questions. No public comments were received. Discussion ensued among the Council and staff.

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

N. ADJOURNMENT
There being no further business on the agenda, and without objection, Mayor Zaragoza adjourned the meeting at 7:52 p.m.

DEE LAI
Interim City Clerk

JOHN C. ZARAGOZA
Mayor

MINUTES
OXNARD CITY COUNCIL
Regular Meeting
July 27, 2023

A. ROLL CALL, POSTING OF AGENDA

At 4:30 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 Assistant 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 Madrigal arrived at 4:33 p.m. Councilmember Basua arrived at 4:47 p.m.

Staff members present in person were Alexander Nguyen, City Manager; Shiri Klima, Deputy City Manager; Stephen M. Fischer, City Attorney; Kenneth Rozell, Chief Assistant City Attorney; Michelle (Elle) McCarron, Assistant City Attorney; Jason Benites, Police Chief; Michael Wolfe, Public Works Director; Joseph Marcinko, Assistant Public Works Director; Steve Howlett, Assistant Public Works Director; Emilio Ramirez, Housing Director; Albert Ramirez, Assistant Housing Director; Brenda Lopez, Housing Programs Manager; Annie Jensen, Project Manager; Terrel Harrison, Cultural and Community Services Director; Philip Molina, City Treasurer; Javier Chagoyen-Lazaro, Interim Chief Financial Officer; Robert Ruben, IT Business Solutions Director; Lisa Baker, Assistant Human Resources Director; Elsa Brown, Affordable Housing Program Manager; Denise Morehouse, Assistant Police Chief; Kathleen Mallory, Planning and Sustainability Manager; and Dee Lai, Assistant City Clerk.

Brittany Lawless, Community Development Partners, Senior Development Manager participated via videoconference.

THE FOLLOWING LEGISLATIVE BODIES ARE MEETING: City Council and Oxnard Parking Authority.
CONSIDERATION OF TELECONFERENCE PARTICIPATION PURSUANT TO ASSEMBLY BILL 2449

B. PUBLIC COMMENTS ON CLOSED SESSION ITEMS

No public comments were received.

C. CLOSED SESSION

1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Government Code section 54956.9(d)(1))
City of Oxnard v. Fox Canyon Groundwater Management Agency, Los Angeles Superior Court Case No. 20STCP00929

2. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Government Code section 54956.9(d)(1))
OPV Coalition; et al. v. Fox Canyon Groundwater Management Agency; et al., Santa Barbara Superior Court Case No. VENCI00555357

At 4:33 p.m., the City Council recessed into a closed session. At 5:14 p.m., the City Council reconvened in an open session in the Council Chambers. Stephen Fischer, City Attorney, announced that the City Council by a vote of 7-0 has directed its legal counsel to forgo appealing the denial of the city's third cause of action in the Fox Canyon GMA litigation that challenged the GMA's CEQA finding. Alternatively, the City Council authorized its legal counsel to file a cross-appeal challenging Judge Kin's denial of the City's CEQA cause of action if the GMA files an appeal of the Court's ruling that invalidated the GMA's allocation ordinance.

D. APPOINTMENT ITEMS

1. City Manager Department
SUBJECT: Presentation by the County of Ventura on Vector Control.
RECOMMENDATION: That the City Council receive the verbal report regarding the Ventura County Resource Management Agency, Environmental Health Division Vector Control Program and provide comments.

Ron Ventura, Ventura County Environmental Health Division Vector Control Manager, and Cary Svoboda, Ventura County Environmental Health Division Vector Control Program Lead, presented and answered the City Council's questions. No public comments were received. Discussion ensued among the council and staff.

2. Public Works Department
SUBJECT: Presentation of the Parks, Recreation, and Community Services Commission Report.
RECOMMENDATION: That the City Council receive a presentation from the Parks, Recreation, and Community Services Commission.

Angela Whitecomb, Chair of the Parks, Recreation, and Community Services Commission, presented and answered the City Council's questions. No public comments were received. Discussion ensued among the council and staff.

E. OPENING CEREMONIES

Mayor Zaragoza led the pledge of allegiance.

F. CEREMONIAL ITEMS

1. SUBJECT: Presentation of the Oxnard Housing Authority Education Scholarship Program.

Emilio Ramirez, Housing Director, stated that the Oxnard Housing Authority education scholarships are privately funded and offered to Section 8 participants. He introduced the scholarship's three sponsors, Montecito Bank & Trust, Ventura County Credit Union, and the City of Port Hueneme, all of whom congratulated the scholarship recipients. Basant Gendi, Tania Salceda, Stephanie Nieto, Shavonne Asberry, and Ana Christine Negrete were among the five scholarship awardees, each of whom received $1500 as well as a Chromebook. Shavonne Asberry and Ana Christine Negrete, along with their families, joined the Council on the dais to accept the ceremonial checks, expressed their gratitude, and spoke briefly. Tania Salceda, Stephanie Nieto, and Basant Gendi were not present at the meeting. Tania Salceda was represented by her mother, Norma Moreno. The council expressed gratitude to the scholarship sponsors, the Oxnard Housing Authority, and wished the scholarship recipients the best of luck in their future pursuits.

G. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Public comments were received from Ray Blattel (fireworks), Jack Villa (traffic and pedestrian safety).

H. REPORT OF CITY MANAGER/EXECUTIVE DIRECTOR/SECRETARY

1. City Manager Department
SUBJECT: Local Government Fun Fact: Oxnard Education Attainment Statistics.
RECOMMENDATION: That the Public and City Council receive a City Manager discussion about Oxnard's statistics.

The City Manager, Alex Nguyen, reminded everyone about National Night Out on August 1, 2023. He added that six neighborhoods are organizing events that will begin at various times. He stated that Community Action of Ventura County will continue to assist with utility bill payments. Under "local government fun facts," Alex illustrated the Ventura Community College District's funding. The councilmembers were given the summer reading book Paved Paradise by Alex.

Public comments were received from Barbara Macri-Ortiz, Manuel Herrera, and Bryan Rodriguez.

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

Councilmember Valenzuela Zavala thanked all the staff for their work. He hoped everyone enjoyed the month without council meetings and that many city members will be at the Cowboy camps.

Councilmember Perello commented on several topics, including neighborhood council meetings, traffic cameras, speeding, fireworks, and Jack Villa after seeing him in the hospital. With no council meeting in August, he hoped everyone enjoyed their summer break. He said that if a special meeting was required, the council would be accessible. He was grateful for the legal team's excellent work on the litigation. He expressed appreciation to those who attended the meeting, congratulated the scholarship winners, and wished them luck in their future pursuits.

Councilmember Basua stated that she will be returning her children to school and then becoming an empty nester.

Councilmember Madrigal thanked everyone who volunteered their time during the summer break to assist our community's youngsters. He referenced the police department's soccer summer camp last month. He was invited to a preview event for Seafood City Supermarket, a new market. He stated that teachers make terrible students because he can do the assigned summer reading in 10 minutes.

Councilmember Teran commented on several topics, including whether or not the book Paved Paradise is available in PDF format; fireworks; police calls for service; navigation applications and Google Maps; speed restrictions; traffic flow; and street paving. Councilmember Teran expressed appreciation to the city manager for the assigned reading. He stated that the council would be available during the legislative recess and that city staff is still working on future items in September and beyond.

Mayor Pro-Tem MacDonald stated that Gold Coast Transit and the Local Teamsters Union have reached a labor agreement. He spoke about the dangers of fireworks and how the police enforced them.

No public comments were received.

1. City Clerk Department
   SUBJECT: Appointment of Member to Serve on the City's Senior Services Commission (CAGs).
   RECOMMENDATION: That the Mayor, with the approval of the City Council, appoint Linda Calderon to the Senior Services Commission representing District 6.

Dee Lai, Assistant City Clerk, was available to answer questions. No public comments were received. Discussion ensued among the council and staff.

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

2. City Clerk Department
   SUBJECT: Appointment of Member to Serve on the City's Senior Services Commission (CAGs).
   RECOMMENDATION: That the Mayor, with the approval of the City Council, appoint Naomi Ontiveros to the Senior Services Commission representing District 4.

Dee Lai, Assistant City Clerk, was available to answer questions. No public comments were received. Discussion ensued among the council and staff.

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

3. City Manager Department
   SUBJECT: City Council Resolution To Create A Volunteer Internship Program with Stipend.
   RECOMMENDATION: That the City Council adopt a **Resolution No. 15,733** creating a volunteer internship program with a stipend.

Alex Nguyen, City Manager, was available to answer questions. A public comment was received from Bryan Rodriguez. Discussion ensued among the council and staff.

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

J. REVIEW OF INFORMATION/CONSENT AGENDA

Items L-1 through L.10 were discussed among the Council and staff.

K. PUBLIC COMMENTS ON INFORMATION/CONSENT AGENDA

No public comments were received.

L. INFORMATION/CONSENT AGENDA

1. City Clerk Department
   SUBJECT: Approval of Minutes.
   RECOMMENDATION: That the City Council approve the minutes of the June 29, 2023 regular meeting as presented.

2. Police Department

SUBJECT: Resolution Commending Alex Arnett for over Thirty-Two Years of Service to the City of Oxnard.
RECOMMENDATION: That the City Council adopt a **Resolution No. 15.734** commending Alex Arnett for over thirty-two years of service to the City of Oxnard Police Department.

3. Police Department
SUBJECT: Resolution Commending Daniel Casson for over Thirty-Three Years of Service to the City of Oxnard.
RECOMMENDATION: That the City Council adopt a **Resolution No. 15,735** commending Daniel Casson for over thirty-three years of service to the City of Oxnard Police Department.

4. City Manager Department
SUBJECT: List of City Manager Approved Contracts - Informational Only.
RECOMMENDATION: That the City Council receive and file the list of City Manager approved contracts for the period January 1, 2023 through June 30, 2023.

(This item did not originate in Committee.)

5. Police Department
SUBJECT: Military Equipment Policy and Ordinance.
RECOMMENDATION: That the City Council:

1. Find that each type of military equipment identified in the Oxnard Police Department's Annual Military Equipment Report complies with the standards set forth in Government Code Section 7071(d); and
2. Renew Ordinance 3014, continuing authorization for the funding, acquisition, and use of military equipment by the Oxnard Police Department.

6. Police Department
SUBJECT: Office of Traffic Safety - STEP Grant.
RECOMMENDATION: That the City Council adopt a **Resolution No. 15,736** authorizing:

1. The City Manager to apply for $455,161.44 in grant funds from the State of California, Office of Traffic Safety (OTS), to be used for the FY 2023-2024 Selective Traffic Enforcement Program (S.T.E.P.);
2. The City Manager or designee to execute grant agreements and appropriate funds upon confirmation of grant award;
3. The Chief Financial Officer or designee to submit financial reports and grant claims and approve budget appropriations for use of OTS funds; and
4. The Chief of Police or designee to submit all program related progress or status reports.

7. Finance Department
SUBJECT: Fourth Amendment to Tyler Technologies Software as an ERP Service Agreement (A-8767) resulting in contract savings of $606,502.00.
RECOMMENDATION: That the City Council approve and authorize the City Manager to execute a Fourth Amendment with Tyler Technologies Software as an ERP Service “SaaS” Agreement resulting in a net contract savings of $606,502.

8. Information Technology Department
SUBJECT: Second Amendment with Kore1 for IT Recruiting Services.
RECOMMENDATION: That City Council approve and authorize the Mayor to execute a Second Amendment to Professional Services Agreement 32300297 with Kore1 LLC to increase the value of the agreement from $200,000 to $500,000 through December 31, 2024, for information technology recruitment services.

9. Fire Department
SUBJECT: Ratify submission of application for 2022 Emergency Management Performance Grant (EMPG) (In kind match of $36,393 required).
RECOMMENDATION: The Oxnard City Council adopt a **Resolution No. 15,737**:

1. That ratifies the submission of a grant application to the Ventura County Office of Emergency Services for the 2022 Emergency Management Performance Grant (EMPG) in the amount of $36,393 for the purpose of offsetting the salary and benefits of the Emergency Services Manager, and the required salary match of $36,393;
2. That authorizes the City Manager or designee to execute the grant agreement if funds are awarded to the City;
3. That authorizes the Chief Financial Officer or designee to submit financial reports and grant claims, approve budget appropriations for the use of grant funds and perform all other required financial actions; and
4. That authorizes the Fire Chief or designee to submit non-financial reports.

10. Housing Department
SUBJECT: Transformative Climate Communities Grant Application
RECOMMENDATION: That the City Council:

1. Adopt a **Resolution No. 15,738**:
a. authorizing the City Manager, or designee, to submit a Transformative Climate Communities Program grant application for $2,400,000 in partnership with Many Mansions;
b. authorizing the City Manager, or designee, to execute and submit all grant documents including, but not limited to, applications, agreements, and payment requests, that may be necessary to carry out the purposes of the grant;
c. authorizing the Chief Financial Officer, or designee, to submit financial reports and grant claims, and approve budget appropriations for the use of the grant funds; and
d. authorizing the Housing Director, or designee, to submit non-financial reports; and

2. Authorize the City Manager, or his designee, to execute a conditional funding award letter, committing $1,200,000 of HOME American Rescue Plan funding to Many Mansions for the construction of Aspire Apartments, an eighty-eight-unit mixed-use affordable rental housing project located at 536-538 Meta Street.

(This item did not originate in Committee.)

Consent Items L.1 – L.10
It was moved by Councilmember Teran, seconded by Councilmember Valenzuela Zavala, to approve the

recommended action with the correction to the June 29, 2023 minutes to indicate that Councilmember Teran participated in person rather than remotely. VOTE: Basua, MacDonald, Madrigal, Perello, Teran, Valenzuela Zavala, and Zaragoza voted in favor; the motion passed 7-0.

M. REPORTS

1. City Treasurer
SUBJECT: City Treasurer's Quarterly Investment Report for the Period Ending June 30, 2023.
RECOMMENDATION: That the City Council receive and file the report.

Phillip Molina, City Treasurer, was available to answer questions. No public comments were received. The report was received and filed; no formal action was required.

2. Housing Department
SUBJECT: Exclusive negotiation agreement between the City of Oxnard, the Parking Authority of the City of Oxnard and The Daly Group.
RECOMMENDATION: That the City Council and the Board of the Parking Authority of the City of Oxnard authorize the Mayor and Chair, respectively, to execute the Exclusive Negotiation Agreement with The Daly Group regarding the Social Security Administration Building (425 South B Street), North Fifth Street, and the surrounding surface parking between B and C Streets and Fourth Street in downtown Oxnard, otherwise known as "Plaza Park North".

(This item was not considered by a Council Committee. The development of Plaza Park North was included in the discussion with the City Council on April 4, 2023.)

Emilio Ramirez, Housing Director, presented and answered questions. A public comment was received from Abel Ramirez. 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; the motion passed 7-0.

3. Housing Department
SUBJECT: Grant of Easement to Southern California Edison on a portion of City owned property located at 251 South A Street in Downtown. (10 minutes)
RECOMMENDATION: That the City Council:

1. Grant a 409 square foot easement to Southern California Edison on the City-owned property located at 251 South A Street consistent with Exhibit A and Exhibit B; and
2. Authorize the City Manager to take all necessary actions to execute the easement, in consultation with the City Attorney's office.

(This item did not originate in Committee.)

Emilio Ramirez, Housing Director, and Brittany Lawless, Community Development Partners' Senior Development Manager, presented and answered questions. No public comments were received. Discussion ensued among the council and staff.

It was moved by Councilmember Valenzuela Zavala, seconded by Councilmember Perello, to approve the recommended action as presented. VOTE: Basua, MacDonald, Madrigal, Perello, Teran, Valenzuela Zavala,

and Zaragoza voted in favor; the motion passed 7-0.

4. Police Department
SUBJECT: Motorola Radio Purchase.
RECOMMENDATION: That the City Council approve and authorize the Oxnard Police Department to "piggyback" onto the County of Los Angeles Master Agreement No. MA-IS-2240228-1 with Motorola Solutions to purchase communication equipment, and authorize the Purchasing Agent to execute a purchase order in the amount of $3.217,496.00 for the equipment purchase.

Denise Morehouse, Assistant Police Chief, presented and answered questions. No public comments were received. Discussion ensued among the Council and staff.

It was moved by Councilmember Valenzuela Zavala, 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.

5. City Manager Department
SUBJECT: Ormond Beach Status Update.
RECOMMENDATION: That the City Council:

1. Receive an update on the current status of Ormond Beach; and
2. Provide additional comments and indicate its support of the direction of the Ormond Beach Restoration and Public Access Project Plan (OBRAP) document.

Annie Jensen, Project Manager, presented and answered questions. Public comments were received from Pat Brown and Barbara Macri-Ortiz. The report was received and filed; no formal action was required.

6. City Manager Department
SUBJECT: Approval of a Funding Agreement between the City and the County of Ventura for the New Family Justice Center in Oxnard.
RECOMMENDATION: That the City Council:

1. Adopt a Resolution authorizing the Mayor to execute a Funding Agreement with the County of Ventura for $2,000,000 for the purchase of the building located at 554-555 South A Street for the Oxnard Family Justice Center; and
2. Authorize the City Manager or designee to execute the necessary actions to effectuate the transfer of funds.

This item was pulled from the agenda. No action was taken.

N. ADJOURNMENT

There being no further business on the agenda, and without objection, Mayor Zaragoza adjourned the meeting at 8:42 p.m.

DEE LAI
Interim City Clerk

JOHN C. ZARAGOZA
Mayor

CITY COUNCIL AGENDA REPORT

INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. L.2

DATE: September 5, 2023

TO: City Council

FROM: Stephen Fischer, City Attorney, (805) 385-7483, stephen.fischer@oxnard.org

SUBJECT: Resolution Commending Eleanor Ebdon for over Twenty-Two Years of Service to the City of Oxnard.

RECOMMENDATION

That the City Council adopt a resolution commending Eleanor Ebdon for over twenty-two years of service to the City of Oxnard.

(This item did not originate in Committee.)

BACKGROUND

On August 31, 2023, Eleanor Ebdon will retire after twenty-two years of outstanding service to the City of Oxnard as a member of the City Attorney's Office.

Eleanor Ebdon began her career with the City of Oxnard as an Administrative Legal Secretary III and thereafter she was promoted, accepting a position of increasing responsibility, scope and challenge in the City Attorney's Debt Collection Program, and will retire as a Paralegal.

Ms. Ebdon was chosen as Employee of the Quarter twice in her career, once in the first quarter of 2008-2009 and once in the second quarter of 2013-2014.

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: Jason Zaragoza, Deputy City Attorney

ATTACHMENTS

1. Ebdon Resolution 1

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD FOR ELEANOR EBDON FOR OVER TWENTY-TWO YEARS OF EXEMPLARY SERVICE TO THE CITY OF OXNARD

WHEREAS, Eleanor Ebdon has given 22 years and 8 months of exemplary service as an employee of the City of Oxnard as a member of the City Attorney's Office; and

WHEREAS, Eleanor Ebdon began her career with the City of Oxnard as an Administrative Legal Secretary III in the City Attorney's Office on December 28, 2000; and

WHEREAS, Eleanor Ebdon was promoted to Paralegal for the City Attorney's Collection Program on May 11, 2002; and

WHEREAS, Eleanor Ebdon appeared in Ventura County Small Claims Court for four days most weeks for twelve years representing the City in debt collection matters; and

WHEREAS, Eleanor Ebdon became a Notary Public for the City of Oxnard in May 2002; and

WHEREAS, Eleanor Ebdon developed professional working relationships with employees in other departments and divisions to improve the debt collection processes; and

WHEREAS, Eleanor Ebdon was a member of the Ventura County Paralegal Association from 2005 through 2020 and completed annual mandatory continuing legal education; and

WHEREAS, Eleanor Ebdon was honored as the City's Employee of the Quarter twice in her career, the first time being honored in the first quarter of 2008-2009, being nominated by staff of the City Attorney's Office for outstanding service to the Debt Collection Program by effectively and diligently handling thousands of cases per year, and the second time being honored was the second quarter of 2013-2014, being nominated by staff of the Fire Department for her outstanding debt collection efforts to the Certified Unified Program Agency (CUPA) Program.

WHEREAS, Eleanor Ebdon exemplifies the best in public service and will be truly missed by her co-workers and friends at the City of Oxnard for her loyal dedication and outstanding work ethic.

NOW THEREFORE, the City Council of the City of Oxnard resolves to commend Eleanor Ebdon for 22 years and 8 months of exemplary service to the City of Oxnard and extends best wishes for a fun and fulfilling retirement with family and friends.

PASSED AND ADOPTED THIS _____ day of _____, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
John C. Zaragoza, Mayor

ATTEST:

_____
Rose Chaparro, City Clerk

APPROVED AS TO FORM:

_____
Stephen M. Fischer, City Attorney

CITY COUNCIL AGENDA REPORT

INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. L.3

DATE: September 5, 2023

TO: City Council

FROM: Jason Benites, Police Chief, (805) 385-7624, jason.benites@oxnardpd.org

SUBJECT: Officer Wellness and Mental Health Grant.

RECOMMENDATION

That the City Council adopt a resolution:

1. Accepting a grant from the Board of State and Community Corrections (BSCC) California in the amount of $152,351.94 for officer wellness and mental health, with no matching funds requirement; and
2. Authorizing the City Manager or designee to execute the grant agreement and appropriate funds for the grant award; and
3. Authorizing the Chief Financial Officer or designee to submit financial reports and grant claims for the use of officer wellness and mental health funds award; and
4. Authorizing the Chief of Police or designee to submit all program-related progress or status reports.

(This item did not originate in Committee)

BACKGROUND

California Assembly Bill 178, also known as the *Budget Act of 2022*, set aside a total of $50 Million for California city and county law enforcement agencies for the "Officer Wellness and Mental Health Grant Program." The purpose of the program is to improve wellness, and increase access to mental health resources for law enforcement officers. The Board of State and Community Correction (BSCC) California manages this program, which allocated $152,351.94 to the Oxnard Police Department based on a formula provided by the California Department of Finance. The program is a three-year grant in which the Police Department must submit annual reports in December 2023 and 2024, with a final report due December 2025, detailing all expenditures and the impact each product or service had on officer wellness.

Police personnel often respond to incidents that can be stressful and traumatic, which can lead law enforcement personnel to experience anxiety, depression, stress disorders, substance abuse, and suicide. The objective of this officer wellness and mental health program is to create a system of organizational and professional support to improve awareness, prevention, and intervention through education, training, and accessibility to mental health resources.

The grant funding can be used to include the following activities:

- Establishing officer wellness units or expanding existing officer wellness units.
- Establishing peer support units or expanding peer support units.
- Providing services from a licensed mental health professional, counselor, or other professionals that work with law enforcement.
- Expanding multi-agency mutual aid programs focused on officer wellness and mental health.
- Establishing other programs or services that are evidence-based, or have a successful track record of enhancing officer wellness.

The City received the grand funds up front rather than through a reimbursement process, and law enforcement agencies are required to use the funds for services to support the physical, emotional, mental, and well-being of officers. Employee wellness and peer support programs have proven successful in helping officers deal with law enforcement-related stress. In addition, fitness and health programs enhance physical performance and health, which can help mitigate work-related injuries. The Oxnard Police Department intends to use the funds to expand the Officer Wellness Program through peer support training, services, fitness equipment, and other programs allowed by the grant.

STRATEGIC PRIORITIES

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

FINANCIAL IMPACT

Approval of this recommendation will have no financial impact on the General Fund. This grant does not require any matching contribution. Staff will appropriate revenue and expenditures in the fiscal year 2023-2024 State Grant Fund (2102131) in the amount of $152,351.94.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Ricardo Vazquez, Police Commander

ATTACHMENTS

1. Grant Award Letter
2. Officer Wellness Grant Resolution updated

DATE: December 21, 2022

TO: Police Chiefs and Sheriffs

FROM: Linda Penner, Chair

SUBJECT: **OFFICER WELLNESS AND MENTAL HEALTH GRANT AWARD**

I am pleased to let you know that the BSCC has begun processing the Officer Wellness and Mental Health grants, which were included in the Budget Act of 2022. All eligible law enforcement agencies will receive their payment by February 15, 2023. This memorandum provides further information about the purposes of the grant, and requests your assistance in identifying the person in your agency who will be responsible for required data reporting.

This disbursement is being made in accordance with Assembly Bill 178, Chapter 45, Statutes of 2022, Item 5227-121-0001. This funding is available to all city and county law enforcement agencies employing officers described in Section 830.1 of the Penal Code. The Officer Wellness grant is for the purpose of improving officer wellness and expanding mental health sources as follows:

1. Establishing officer wellness units or expanding existing officer wellness units.
2. Establishing peer support units or expanding peer support units.
3. Services provided by a licensed mental health professional, counselor, or other professional that works with law enforcement.
4. Expanding multiagency mutual aid programs focused on officer wellness and mental health.
5. Other programs or services that are evidence based or have a successful track record of enhancing officer wellness.

For further information about this funding and to identify the amount of funding allocated to your agency, please visit the Board of State and Community Corrections' webpage for the Officer Wellness and Mental Health Grant available at https://www.bscc.ca.gov/officer-wellness-and-mental-health-grant-program/.

Provision 2 of the Budget Act requires each grant recipient to submit an expenditure report and a final impact report no later than December 1, 2025. Additionally, grant recipients will submit a brief annual expenditure report. Reports will be provided to the Commission on Peace Officer Standards and Training (POST). Detailed information regarding reporting requirements and reporting requirement webinars will be sent out in early 2023.

Please send the name and email address of the individual(s) within your agency who will be responsible for the implementation and reporting requirements for this grant to OfficerWellnessGrant@bscc.ca.gov by February 28, 2023 so they may receive additional information regarding detailed reporting requirements, webinars, and deadlines.

If you have any questions regarding this funding distribution, please email OfficerWellnessGrant@bscc.ca.gov and a BSCC staff member will respond.

Sincerely,

LINDA PENNER
Chair
Board of State & Community Corrections

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD
ACCEPTING A GRANT AWARD FROM
THE BOARD OF STATE AND COMMUNITY CORRECTIONS
IN THE AMOUNT OF $152,351.94

WHEREAS, the State of California 2022 Budget Act allocated $50 million to be administered by the Board of State and Community Corrections for the Officer Wellness and Mental Health Grant Program; and

WHEREAS, the grant funds were distributed to law enforcement agencies throughout California based on a schedule provided by the California Department of Finance; and

WHEREAS, the Board of State and Community Corrections has notified the Oxnard Police Department that they have been awarded the grant in the amount of $152,351.94 for Officer Wellness and Mental Health Grant Program to improve officer wellness and expand mental health resources.

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

1. The grant award in the amount of $152,351.94 from the Officer Wellness and Mental Health Grant Program administered by the Board of State and Community Corrections is accepted.

2. The City Manager or designee is authorized to execute grant agreements.

3. The Chief Financial Officer or designee is authorized to submit financial reports and grant claims and approve administrative budget adjustments for the use of the grant funds.

4. The Chief of Police or designee is authorized to submit all reporting requirements set by the Board of State and Community Corrections, including annual and final reports.

PASSED AND ADOPTED THIS 5th day of September 2023 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
John C. Zaragoza, Mayor

ATTEST:

_____
Rose Chaparro, City Clerk

APPROVED AS TO FORM:

_____
Stephen M. Fischer, City Attorney

CITY COUNCIL AGENDA REPORT

INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. L.4

DATE: September 5, 2023

TO: City Council

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

SUBJECT: Trade Services Agreement 32400020 with Blackpointe Group Construction & Management Inc., for On-Call Storm Channel Cleaning Services.

RECOMMENDATION

That the City Council approve and authorize the execution of an Agreement with Blackpointe Group Construction & Management Inc. (Blackpointe), for an amount not to exceed $900,000 for a three-year term ending September 19, 2026, for On-Call Storm Channel Cleaning Services for the Public Works Department.

(Public Works and Transportation Committee approved 3-0)

BACKGROUND

The Public Works Stormwater group oversees and maintains approximately 50 miles of open storm drain channels. These channels are designed to convey stormwater runoff to the ocean and must be properly maintained to mitigate flooding during rain events. Maintenance activities for these channels include stabilizing eroded sections and the removal/disposal of sediment to maintain the flow line. These services have historically been performed by a third party contractor due to the specialized equipment needed to perform channel maintenance.

DISCUSSION

The Purchasing Department released a Request for Proposal (RFP) PW 23-82R for On-Call Storm Channel Cleaning Services on April 26, 2023, with a proposal due date of May 19, 2023. RFP PW 23-82R received a total of three (3) proposals from the following contractors:

- Blackpointe Group Construction & Management Inc. (Blackpointe)
- United Stormwater, Inc.
- Toro Enterprises, Inc.

The proposals were reviewed by the Purchasing Division (Buyer) and the Wastewater Division (Wastewater Collections Manager, Management Analyst, and Associate Engineer) with a determination of Blackpointe to be the highest ranked proposer based on scoring criteria listed in RFP PW 23-82R. Scoring criteria consisted of contractor's past record of performance, technical competence and experience, ability and history providing the requested work, clarity and completeness of the proposal, and cost. Staff have also confirmed that Blackpointe meets all required City contractual provisions including possession of a City business tax certificate, insurance certificates and corporate filing with the California Secretary of State. Based upon the available information and research performed to date, staff believes that Blackpointe is capable of satisfactorily providing the necessary services.

Under this contract, Blackpointe shall remove and dispose of channel debris including organic and inorganic waste, mow

organic vegetation, and restore flow lines. Services shall include but not be limited to the following locations:

Arnold Road Drain	East 5th St. Drain	Victoria North Drain
Auto Center Drain	Sturgis Drain	Victoria South Drain
Doris Drain	Teal Club Drain	West 5th St. Drain

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 shall not exceed $900,000 over the term of three years and will commence September 2023. The estimated spending plan is listed in the table below. These costs will be funded using available budget appropriations from the Stormwater Fund (114). Funding for this current fiscal year is included in the FY 2023-24 Adopted Budget and subsequent fiscal years will be requested through the annual budget process.

ESTIMATED SPENDING PLAN						
Division	**Account**	**FY 23-24 (10 Months)**	**FY 24-25 (12 Months)**	**FY 25-26 (12 Months)**	**FY 26-27 (2 Months)**	**Total**
Stormwater	1143502-53200	$250,000	$300,000	$300,000	$50,000	$900,000

COMMITTEE OUTCOME

The Public Works and Transportation Committee approved 3-0 on July 11, 2023 to approve the staff recommendation and to forward the item for Council approval.

Prepared by: Jan Hauser, Wastewater Division Manager, Joseph Marcinko, Assistant Public Works Director

ATTACHMENTS

1. Agreement 32400020

TRADE SERVICE AGREEMENT
BETWEEN
THE CITY OF OXNARD AND BLACKPOINTE GROUP
CONSTRUCTION & MANAGEMENT, INC.

By This Trade Services Agreement ("Agreement"), the CITY of Oxnard ("CITY") agrees to engage the services of Blackpointe Group Construction & Management, Inc. ("SERVICE PROVIDER"), and SERVICE PROVIDER agrees to perform the services for CITY as herein described, for the compensation, during the term, and otherwise subject to the covenants and conditions herein set forth. CITY and SERVICE PROVIDER may be individually referred to as "Party" or collectively as the "Parties."

1. SUMMARY DESCRIPTION OF SERVICES. On-Call Storm Channel Cleaning Services

This Agreement is for "on call" or "as needed" services as identified in Exhibit A-Scope of Services. The City does not guarantee that any services will be requested under this agreement or that any services requested under this agreement will reach the agreement amount listed in section 4. All "on call" or "as needed" services requested by the City shall be paid at the rates identified in Exhibit B-Rate and Cost Sheet.]

2. PARTIES.

CITY OF Oxnard ("CITY"), a general law and municipal corporation of the State of California, located at 300 West Third Street, Oxnard California 93030

Blackpointe Group Construction & Management, Inc. ("SERVICE PROVIDER"), a corporation of the State of California, located at 11972 Hertz Ave. Moorpark, California 93021

3. TERM OF AGREEMENT: From (Date): September 20, 2023 To (Date): September 19, 2024

3.1 Time is of the essence in this Agreement.

3.2 Any Optional Extension (initial term, plus any option to extend) shall not exceed a total of three (3) years. The CITY in its sole discretion may exercise the optional extension upon 60 days written notice to the SERVICE PROVIDER in accordance with Section 11 of this Agreement. SERVICE PROVIDER shall issue its written consent to the CITY's exercise of the option extension within 10 days of receipt of notice from the CITY. All Notices shall comply with section 20 of this Agreement.

3.3 The CITY shall have the option for (2) two consecutive (1) one-year extensions, in accordance with the scope of work and general terms and conditions of the Trade Services Agreement. Any price increases or decreases shall be negotiated at time of contract extension.

3.4 All services required of SERVICE PROVIDER under this Agreement shall be completed on or before the end of the term of the Agreement.

4. AGREEMENT AMOUNT NOT TO EXCEED: $900,000.

5. AGREEMENT EXHIBITS: The following documents memorialized below are the only exhibits to this agreement and are incorporated by reference as though fully set forth herein. In the event of a conflict between the Exhibits and this Agreement, the Agreement controls.

Exhibit A: Scope of Services
Exhibit B: Schedule of Compensation
Exhibit C: Insurance Requirements
Exhibit D: Living Wage Policy
Exhibit E: Prevailing Wage Policy

6. DESIGNATED REPRESENTATIVES.

The Designated Representatives listed below shall be authorized to act on behalf of the named Party, be responsible for negotiations and contractual matters, and coordinate with each other to perform the services under this Agreement. Additionally, SERVICE PROVIDER's services shall be performed or immediately supervised by the SERVICE PROVIDER's Representative:

CITY Designated Representative:

Name: Ray Trevino
Title: Wastewater Collections Manager
Phone: 805-271-2215
Email: ray.trevino@oxnard.org
Mailing Address (if differs from above):
6001 Perkins Road
Oxnard, California 93033

SERVICE PROVIDER Designated Representative:

Name: Victor Schittone
Title: Founder/Director/Secretary
Phone: 888-707-4474 ext. 117
Email: office@blackpointe.com
Mailing Address (if differs from above):

7. CONTRACTUAL PREREQUISITES.

7.1. This Agreement must first be executed by the SERVICE PROVIDER, after which the Agreement shall be approved as to form by the CITY Attorney, then executed by the Mayor, or an authorized person on behalf of the CITY, and if executed by the Mayor shall also be executed by the CITY Clerk.

7.2. A request for modification of the terms, prior to execution of the Agreement, must be made in writing and presented to the Designated Representative of the CITY prior to the time this Agreement is executed.

7.3. All proof of business license, insurance, and W-9 forms is required prior to execution of this Agreement.

7.4 SERVICE PROVIDER shall not perform any work under this Agreement until a proof of insurance has been provided to the City as required under Section 24 of this Agreement.

8. SERVICE PROVIDER'S SERVICES.

8.1 SERVICE PROVIDER shall perform the tasks, obligations, and services set forth in the "Scope of Services," attached to and incorporated into this Agreement as "Exhibit A." Once this Agreement is executed, the Scope of Services may only be modified by written Amendment pursuant to Section 12 of this Agreement.

8.2 The Services shall be coordinated with the designated City Project Manager set forth in Exhibit A subject to the direction of the City Manager or Department Director. SERVICE PROVIDER hereby designates its Project Manager as set forth in "Exhibit A" as the person responsible for the Services who shall coordinate with City's Project Manager in executing the scope of services under this Agreement.

9. COMPENSATION.

CITY shall pay SERVICE PROVIDER for the services performed pursuant to the terms of this Agreement in the time and manner set forth in the "Schedule of Compensation," attached to and incorporated into this Agreement as **"**Exhibit B." CITY shall pay SERVICE PROVIDER an amount not to exceed the amount is listed in Section 4 of this Agreement. Once this Agreement is executed, the Schedule of Compensation may only be modified by written Amendment pursuant to Section 12 of this Agreement, and may be subject to approval by the City Council.

10. PAYMENT & INVOICES.

The CITY shall pay all undisputed portions of any applicable invoice within forty-five (45) days after receipt of an invoice. In the event the CITY disputes one or more items in an invoice, the CITY shall, within forty-five (45) days after receipt of such invoice, notify the SERVICE PROVIDER of the item(s) being disputed and the reason(s) therefore. The CITY may withhold payment for such disputed items until resolution of the dispute.

10.1 Payment Request. SERVICE PROVIDER shall submit a payment request to CITY by the end of each calendar month listing the Services provided, costs of those Services, and total amount due for the month. Invoices may be emailed to: **pwinvoices@oxnard.org**.

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

10.3 SERVICE PROVIDER's acceptance of final payment made pursuant to this Agreement shall constitute a release of CITY from all claims and liabilities for compensation to SERVICE PROVIDER 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 SERVICE PROVIDER 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 SERVICE PROVIDER and its employees, agents and Subcontracted service providers.

10.4 SERVICE PROVIDER 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 SERVICE PROVIDER or materials or products provided to CITY by SERVICE PROVIDER, SERVICE PROVIDER shall pay the sales tax. CITY shall not reimburse SERVICE PROVIDER for sales taxes paid by SERVICE PROVIDER.

11. OPTION TO EXTEND AGREEMENT.

When in the CITY's best interest, this Agreement may only be extended, if the City in its discretion exercises the option to extend pursuant to Section 3.2 and 3.3 of the Agreement. The initial term, plus any option to extend, shall not exceed a total of five (5) years. **If no option to extend the Agreement appears in section 3.2 and 3.3, this Agreement shall not be extended.**

12. MODIFICATION OF AGREEMENT.

This Agreement may be amended, modified, or otherwise altered, or its provisions waived, only upon mutual consent of the Parties by written amendment, and as authorized by the Oxnard Municipal Code, Article IV, Sections 4-59 and 4-60.

13. TERMINATION OF AGREEMENT.

CITY may terminate this Agreement at any time, with or without cause and without penalty, upon fifteen (15) calendar days' prior written notice pursuant to Section 31 of this agreement. Such termination shall be effective on the date specified in the notice, or if no date is specified, then fifteen (15) calendar days from the date of the notice. CITY shall be liable to SERVICE PROVIDER only for work done by SERVICE PROVIDER up to and including the date of termination of this Agreement unless the termination is for cause, in which event SERVICE PROVIDER need be compensated only to the extent required by law. SERVICE PROVIDER may terminate this Agreement at any time during the term of the Agreement by giving the CITY sixty (60) calendar days' written notice.

14. INDEPENDENT CONTRACTOR

SERVICE PROVIDER 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 SERVICE PROVIDER or any of its employees, except as stated in this Agreement. SERVICE PROVIDER 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 SERVICE PROVIDER. This Agreement shall not be interpreted to prevent or preclude SERVICE PROVIDER from rendering any services for SERVICE PROVIDER's own account or to any other person or entity as SERVICE PROVIDER in its sole discretion shall determine; provided, however, that performing such services shall not materially interfere with the Services the SERVICE PROVIDER shall perform for the City. The CITY retains the right to provide general instructions to and observe the SERVICE PROVIDER in the performance of all services done on behalf of the CITY.

SERVICE PROVIDER 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. SERVICE PROVIDER and its employees are not employees of City. SERVICE PROVIDER 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. SERVICE PROVIDER shall not, at any time or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of City.

15. LAWFUL PERFORMANCE.

SERVICE PROVIDER shall abide by all Federal, State, and Local Laws and Regulations as may be related to the performance of duties under this Agreement. SERVICE PROVIDER, at its sole expense, shall obtain and maintain during the term of this Agreement, all appropriate permits, licenses, and certificates that may be required in connection with the performance of services under this Agreement.

16. SAFETY REQUIREMENTS.

SERVICE PROVIDER shall not perform any services for the CITY when the SERVICE PROVIDER is impaired by alcohol or a controlled substance. When there is reasonable cause to believe that any person has violated this provision, that person shall be immediately removed from the premises and be subject to any applicable civil and/or criminal penalties under the CITY's Code and/or under state law. All work performed under this Agreement shall be performed in such a manner as to provide safety to the public. The CITY reserves the right to issue restraining or cease and desist orders to SERVICE PROVIDER when unsafe or harmful acts are observed or reported relative to the performance of the work under this Agreement. The acceptance of SERVICE PROVIDER's work by CITY shall not operate as a release of the SERVICE PROVIDER from such standard of care and workmanship.

17. OWNERSHIP OF SERVICE PROVIDER'S WORK PRODUCT, CONFIDENTIALITY & DISCLOSURE.

CITY shall be the owner of any and all technical documents and records, including, computations, plans, correspondence, and/or other pertinent data and information, both hard copy and electronic, gathered or prepared by SERVICE PROVIDER in performance of this Agreement and shall be entitled to immediate possession of the same upon completion of the work under this Agreement, or at any earlier or later time when the same may be requested by CITY.

17.1. Records and Inspections. The SERVICE PROVIDER shall maintain full and accurate records, with respect to all services and matters covered under this Agreement. The CITY shall have free access at all reasonable times to such records, both hard copy and electronic, and the right to examine and audit the same and to make transcripts therefrom, and to inspect all program data, documents, proceedings, and activities.

17.2. Deliverables. SERVICE PROVIDER shall deliver to the CITY the studies, plans, specifications, or other documents as are identified in the Scope of Services; and SERVICE PROVIDER shall, upon completion of all work, submit to the CITY all information developed in the course of the SERVICE PROVIDER's services. SERVICE PROVIDER shall, in such time and in such form as the CITY may require, furnish reports concerning the status of services required under this Agreement. SERVICE PROVIDER shall, upon request by CITY and upon completion or termination of this Agreement, deliver to the CITY all material furnished to SERVICE PROVIDER by the CITY.

17.3. Ownership – Generally. All inventions, discoveries, enhancements, changes, or improvements of computer programs developed pursuant to this Agreement shall be the property of the CITY, and all patents or copyrights shall be assigned to the CITY, unless otherwise agreed. SERVICE PROVIDER agrees that CITY may make modifications to computer software furnished by SERVICE PROVIDER without infringing SERVICE PROVIDER's copyright or any license granted to CITY, unless otherwise agreed.

17.4. Ownership of Documents. Every report, draft, work product, map, record, and other document reproduced, prepared, or caused to be prepared by the SERVICE PROVIDER pursuant to or in connection with this Agreement shall be the exclusive property of the CITY.

17.5. Confidentiality. Information that is exempt from disclosure to the public is confidential. This includes information relating to the past, present, or future affairs of the City or information belonging to a third party whose information is in the City's possession or control under obligations of confidentiality. SERVICE PROVIDER may be granted access to information that is exempt from disclosure

to the public (Government Code Section 6254 and 6254.16) and may contain "trade secrets" (see Government Code Section 6254.7(d)) when it is necessary for SERVICE PROVIDER to perform its obligations pursuant to this Agreement. If SERVICE PROVIDER is granted such access to confidential information, SERVICE PROVIDER shall not be considered to be a member of the public as that term is used in Government Code Section 6254.5.

17.6. Disclosure of Information. SERVICE PROVIDER shall not disclose, publish, or authorize others to disclose or publish, design data, drawings, specifications, reports, or other information pertaining to the projects assigned to SERVICE PROVIDER by the CITY or other information to which the SERVICE PROVIDER has had access during the term of this Agreement without the prior written approval of the CITY's Designated Representative during the term of this Agreement and for a period of two (2) years after the termination of this Agreement.

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

18. ASSIGNMENT.

This Agreement is for the non-professional services of SERVICE PROVIDER. Any attempt by SERVICE PROVIDER to assign the benefits or burdens of this Agreement without the prior written approval of CITY shall be prohibited and shall be null and void. SERVICE PROVIDER's services pursuant to this Agreement shall be provided by the SERVICE PROVIDER's Designated Representative or directly under his/her supervision, and SERVICE PROVIDER shall not assign another to supervise the SERVICE PROVIDER's performance of this Agreement without the prior written approval of CITY, by and through the CITY's Designated Representative.

19. NOTICE OF BREACH AND OPPORTUNITY TO CURE.

Neither Party will be in breach of this Agreement where the breach is capable of being cured, or until written notice of the breach is received from the non-breaching Party. The Party charged with breach will have fifteen (15) calendar days from the date of receiving such notice in which to cure the breach or otherwise respond. If the circumstances leading to the charge that the Agreement was breached have not been cured or explained to the satisfaction of the other Party within fifteen (15) days from the date on which the breaching Party received notice of breach, the non-breaching Party may terminate this Agreement.

20. NOTICES.

All notices given or required to be given pursuant to this Agreement shall be in writing and may be given by personal delivery or by first-class mail. Notice sent by mail shall be addressed to each Party's Designated Representative as set forth above in Section 6. When addressed in accordance with this Section, such notice shall be deemed given upon deposit in the United States mail, postage prepaid. In all other instances, notices shall be deemed given at the time of actual delivery. Changes may be made in the names or addresses of persons to whom notices are to be given by giving notice in the manner prescribed in this Section.

21. COVENANTS AND CONDITIONS.

Each term and each provision of this Agreement to be performed by SERVICE PROVIDER shall be construed to be both a covenant and a condition.

22. WAIVER.

CITY's review or acceptance of, or payment for, work product prepared by SERVICE PROVIDER under this Agreement will not be construed to operate as a waiver of any rights CITY may have under this Agreement or of any cause of action arising from SERVICE PROVIDER's performance. A waiver by CITY of any breach of any term, covenant, or condition contained in this Agreement will not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained in this Agreement, whether of the same or different character.

23. INDEMNIFICATION, HOLD HARMLESS & DEFENSE.

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

23.2 The duty to defend is a separate and distinct obligation from SERVICE

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

23.3 The review, acceptance or approval of SERVICE PROVIDER's work or work product by any of the Indemnitees shall not affect, relieve or reduce SERVICE PROVIDER's indemnification or defense obligations. SERVICE PROVIDER waives any right of contribution against CITY or any of CITY's officers, employees, agents, or volunteers arising out of such failure to inspect, review, monitor, or supervise the work performed by SERVICE PROVIDER pursuant to this Agreement. The provisions of this Section shall not be restricted by and do not affect the provisions of this Agreement relating to Section 24. The SERVICE PROVIDER's obligations under this Section of the Agreement shall survive the termination of the Agreement.

23.4 SERVICE PROVIDER agrees to pay all required taxes on amounts paid to SERVICE PROVIDER 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. SERVICE PROVIDER shall be solely responsible for, and shall save CITY harmless from, all matters relating to the payment of SERVICE PROVIDER'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 SERVICE PROVIDER under this Agreement any amount due to CITY from SERVICE PROVIDER as a result of its failure to promptly pay to CITY any reimbursement or indemnification arising under this Section.

24. INSURANCE.

SERVICE PROVIDER shall obtain and maintain during the performance of any services under this Agreement the insurance coverages listed within "Exhibit C", which is attached hereto and incorporated herein by this reference, unless the Risk Manager

waives, in writing, the requirement that SERVICE PROVIDER obtain and maintain such insurance coverages. Such insurance must be issued by a company satisfactory to the Risk Manager. SERVICE PROVIDER shall, before performance of any Services pursuant to this Agreement, file with the Risk Manager evidence of insurance coverage as specified in "Exhibit C". Maintenance of insurance coverages by SERVICE PROVIDER is a material element of this Agreement. SERVICE PROVIDER'S failure to maintain or renew insurance coverages or to provide renewal evidence shall be considered a material breach of this Agreement.

25. LIVING WAGE REQUIREMENTS.

During the term of this Agreement, SERVICE PROVIDER understands and agrees that if Living Wages are applicable subject to the 2002 Oxnard City Council Living Wage Policy, attached as "Exhibit D" to this Agreement. SERVICE PROVIDER will pay and/or provide the wages and/or benefits required therein to all of its employees engaged in whole or in part in performing the services provided for by this Agreement. The duty to pay the correct wage is the responsibility of the SERVICE PROVIDER.

26. PREVAILING WAGE REQUIREMENTS.

26.1. Application. The payment of State prevailing wages as designated for Ventura County shall apply to public works projects. However, this section shall not apply to work performed on a public works project of twenty-five thousand dollars ($25,000) or less when the project is for construction, alteration, demolition, installation, or repair work; or to work performed on a public works project of fifteen thousand dollars ($15,000) or less when the project is for maintenance work. Prevailing wages are required to be paid to all workers, including subcontracted employees.

26.2. Compliance with California Department of Industrial Relations (DIR). To determine if this Agreement is subject to compliance monitoring and enforcement, go to:
https://www.dir.ca.gov/Public-Works/PublicWorksSB854FAQ.html

26.3. Contract Splitting. It is unlawful to split, or separate into small portions, work orders, projects, purchases, or public works projects for the purpose of evading these prevailing wage requirements.

26.4. Use of Prevailing Wages vs. Living Wages. In the event that there is a difference between the amount of wages to be paid under the CITY of Oxnard's local Living Wage requirements and the requirements of this provision, the wage rate that is the higher of the two shall be applicable to this Agreement. The duty to pay the correct wage is the responsibility of the SERVICE PROVIDER.

27. CONFLICT OF INTEREST

SERVICE PROVIDER covenants that it does not have any interest, nor shall it acquire any interest, directly or indirectly, which would conflict in any manner with the performance of SERVICE PROVIDER's services under this Agreement. SERVICE PROVIDER further covenants that in the performance of services under this Agreement, no officer, employee or agent of SERVICE PROVIDER having such interest shall be employed by it. In the event the CITY determines that SERVICE PROVIDER must disclose its financial interests by completing and filing a Fair Political Practices Commission Form 700, Statement of Economic Interests, SERVICE PROVIDER shall file such Form 700 with the CITY Clerk's Office pursuant to the written instructions provided by the CITY Clerk. Acquisition or maintenance of a conflicting interest by SERVICE PROVIDER may result in termination of this Agreement by the CITY.

28. IRAN CONTRACTING ACT

29. [RESERVED] -

30. DISPUTES.

Except as otherwise provided in these provisions, any dispute concerning a question of fact arising under this Agreement, shall be decided by the CITY's Designated Representative, who shall reduce this decision to writing and mail a copy to the SERVICE PROVIDER. The decision of the CITY's Designated Representative shall be final and conclusive unless SERVICE PROVIDER requests mediation within ten (10) calendar days. Pending final decision of a dispute, the SERVICE PROVIDER shall proceed diligently with the performance of the Agreement and in accordance with the decision of the CITY's Designated Representative.

31. DISPUTE RESOLUTION.

Should an unresolved dispute arise out of this Agreement, any Party may request that it be submitted to mediation. The Parties shall meet in mediation within a reasonable time not to exceed forty five (45) days of a request. The mediator shall be agreed to by the mediating Parties. In the absence of an agreement on a mediator, the Parties shall each submit one name from mediators listed by the American Arbitration Association, the California State Board of Mediation and Conciliation, or other agreed-upon service. The mediator shall be selected by a "blindfold" process. The cost of mediation shall be borne equally by both Parties. Neither Party shall be deemed the prevailing Party. No Party shall be permitted to file a legal action without first meeting in mediation and making a good faith attempt to reach a mediated settlement. The mediation process, once commenced by a meeting with the mediator, shall last until agreement is reached by the Parties but not more than sixty (60) calendar days, unless the maximum time is extended in writing by both Parties.

32. AUDIT.

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

33. ADVERTISING AND PUBLICITY

SERVICE PROVIDER shall not use the name of or refer to CITY directly or indirectly in any advertisement, news release, or professional or trade publication without prior written approval from the City Manager. This Section shall survive the termination of this Agreement.

34. NONDISCRIMINATORY EMPLOYMENT.

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

35. FORCE MAJEURE.

Neither the SERVICE PROVIDER nor the CITY shall be responsible for any delay caused by any contingency beyond their control, including, but not limited to, war or insurrection, walkouts by the Party's own employees, fires, natural calamities, riots, or demands or requirements of governmental agencies other than the CITY.

36. GOVERNING LAW.

The terms of this Agreement shall be interpreted according to the laws of the State of California. Should litigation occur, venue shall be in the Superior Court of California, County of Ventura.

37. SEVERABILITY.

If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, then such portion will be deemed modified to the extent necessary in the opinion of the court to render such portion enforceable and, as so modified, such portion and the balance of this Agreement will continue in full force and effect and be enforceable.

38. INTEGRATED AGREEMENT.

This Agreement and the attached exhibits referenced herein to this Agreement represent the entire understanding between the Parties. No verbal agreement or implied covenant shall be held to vary the provisions of this Agreement. This Agreement shall bind and inure to the benefit of the Parties to this Agreement and any subsequent successors and assigns.

39. NO THIRD-PARTY BENEFICIARY.

This Agreement shall not be construed to be an agreement for the benefit of any third-party or parties, and no third party or parties shall have any claim or right of action under this Agreement.

40. AUTHORITY TO EXECUTE.

Each Party hereto expressly warrants and represents that through its Designated Representative it has the authority to execute this Agreement on behalf of its corporation, partnership, business entity, or governmental entity, and warrants and represents that the Designated Representative has the authority to bind each Party to the performance of its obligations hereunder.

41. EXECUTION – COUNTERPARTS.

This Agreement may be executed in any number of counterparts and each such duplicate counterpart shall constitute an original, but they shall not be effective nor enforceable unless and until it is executed with the handwritten signature of an authorized representative of each of the relevant Parties. No counterpart shall be deemed to be an original or presumed delivered unless and until the counterpart executed by the other Party to this Agreement is in the physical possession of the Party seeking enforcement thereof.

42. INCONSISTENT OR CONFLICTING TERMS.

In the event of any contradictions or inconsistencies between any attached documents or exhibits incorporated by reference herein and the provisions of the Agreement itself, the terms of the Agreement shall control. Any exhibit that is attached and incorporated by reference shall be limited to the purposes for which it is attached, as specified in this Agreement. Any contractual terms or conditions contained in such exhibit imposing additional obligations on the CITY are not binding upon the CITY's Designated Representative unless specifically agreed to in writing, and initiated by CITY's Designated Representative, as to each additional contractual term or condition.

43. ACKNOWLEDGEMENT.

By signing below, SERVICE PROVIDER acknowledges that it has reviewed the CITY's Trade Services Agreement terms and conditions and insurance requirements and that SERVICE PROVIDER hereby agrees to full compliance.

[Signatures on next page]

In witness whereof, the Parties have entered into this Agreement on the date as written in section 3 and upon signature of all Parties.

CITY OF OXNARD

☑John C. Zaragoza, Mayor[1] Date
☐Jennifer Yates, Purchasing Manager[2]

BLACKPOINTE GROUP CONSTRUCTION & MANAGEMENT, INC.

Victor Schittone, Founder/Director/Secretary Date

Laurel Schittone, CFO[3] 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 execute any agreement over $200,000.

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

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

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

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

EXHIBIT A

TRADE SERVICE AGREEMENT
(CITY of Oxnard and Blackpointe Group Construction & Maintenance, Inc.)

SCOPE OF SERVICES

Contractor shall furnish all necessary labor, materials, equipment, and other incidental and appurtenant Work to provide On-Call Storm Channel Cleaning Services for the City of Oxnard. Potential work locations are shown on the attached Exhibit A and the City may add additional locations as needed.

The scope of Work shall include, but not be limited to:

1. Removal and disposal of debris, organic vegetation, and miscellaneous material (waste) from concrete and earthen channels.

2. Mowing / Cutting of organic vegetation

3. Adjust and restore flow line from invert beginning to invert end as necessary.

4. Repair and stabilize eroded embankments using existing available material.

5. Contractor shall provide transport and disposal services of storm channel waste.

6. Contractor shall use a disposal site that is properly permitted and regulated. Contractor shall comply with the following transport provisions:

    a. Contractor shall inspect each trailer for roadworthiness as required by California Vehicle Code and shall correct any safety problems before transporting waste. All traffic citations or citations for violations of health and safety regulations by law enforcement or regulatory agencies shall be the responsibility of the Contractor.
    b. Contractor shall ensure that materials from other sources do not contaminate or mix with City storm channel waste.
    c. It shall be the responsibility of the Contractor to assure that each transported load meets weight and load distribution requirements before transport.
    d. Contractor shall submit to the City a disposal plan

7. The City requires that the Contractor use certified scales at the disposal site to accurately account for all storm channel waste delivered to the disposal site. Weight slips for each trailer load shall be submitted with each Invoice to accurately account for tonnage.

Exhibit A - Drain Lengths

Oven Storm Drain Channels	Miles
Arnold Rd Drain	0.60
Auto Center Drain	0.85
Doris Drain	1.25
East 5th St Drain	1.25
Sturgis Drain	2.50
Teal Club Drain	1.45
Victoria North	0.25
Victoria South	0.65
West 5th St Drain	1.20

EXHIBIT B

TRADE SERVICE AGREEMENT
(CITY of Oxnard and Blackpointe Group Construction & Management, Inc.)

SCHEDULE OF COMPENSATION

ITEM NO.	DESCRIPTION	UNIT	TOTAL
1	Storm Channel Waste Removal (labor & equipment)	Hourly Rate	$117.00
2	Hauling and Disposal of Storm Channel Waste (labor & equipment)	Per Ton	$80.00
3	Hauling and Disposal of Storm Channel Hazardous Waste (labor & equipment)	Per Ton	$130.00

EXHIBIT C

TRADE SERVICES AGREEMENT
(CITY of Oxnard and Blackpointe Group Construction & Management, Inc.)

INSURANCE REQUIREMENTS

Prior to contract approval, CONSULTANT/SERVICE PROVIDER/SELLER/BIDDER (hereafter referred to as "SERVICE PROVIDER") must procure, agree to maintain and supply evidence of insurance at the levels listed and in accordance with the other provisions listed in this document.

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.

1. 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

2. 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.

3. 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).

4. 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.

5. 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.

6. 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.

6/23

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

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

Endorsement Forms

Original endorsements are required for 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-D.doc

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER

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

CODE SUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY LETTER A SPECIFY COMPANY NAMES IN THIS SPACE

COMPANY LETTER B

COVERAGES

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

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	**GENERAL LIABILITY** [x] COMMERCIAL GENERAL LIABILITY [x] CLAIMS MADE [x] OCCUR. [x] OWNER'S & CONTRACTOR'S PROT.				GENERAL AGGREGATE $1,000,000 PRODUCTS COMP/OP AGG. $1,000,000 PERSONAL & ADV. INJURY $1,000,000 EACH OCCURRENCE $1,000,000 FIRE DAMAGE (Any one fire) $ MED. EXPENSE (Any one person) $
A	**AUTOMOBILE LIABILITY** [x] ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS GARAGE LIABILITY				COMBINED SINGLE 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

SAMPLE

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

CERTIFICATE HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

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

AUTHORIZED REPRESENTATIVE

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

SUBMIT IN DUPLICATE

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

PRODUCER

Telephone:

NAMED INSURED

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

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

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

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

GENERAL LIABILITY
☐ COMMERCIAL GENERAL LIABILITY
☐ 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 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 _____

Rev. 6/23 INS-D.doc

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

SUBMIT IN DUPLICATE

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

PRODUCER

Telephone:

NAMED INSURED

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

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

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

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

☐ COMMERCIAL AUTO POLICY
☐ BUSINESS AUTO POLICY
☐ OTHER

OTHER PROVISIONS

LIMIT OF LIABILITY

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

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

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

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

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

ENDORSEMENT HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

AUTHORIZED REPRESENTATIVE

☐ Broker/Agent ☐ Underwriter ☐ _____

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

Signature _____
(original signature required)

Telephone: ( ) Date Signed _____

Rev. 6/23

EXHIBIT D

TRADE SERVICES AGREEMENT
(CITY of Oxnard and Blackpointe Group Construction & Management, Inc.)

LIVING WAGE POLICY

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

A. SERVICE PROVIDER shall compensate any employee of SERVICE PROVIDER who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as the Living Wage Policy Exhibit. While this Agreement is in effect, SERVICE PROVIDER shall pay such employee no less than $18.22 per hour for each hour that such employee provides services under this Agreement. In addition, while this Agreement is in effect, SERVICE PROVIDER shall provide to such employee no less than 96 hours of paid leave per calendar year.

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

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

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

CITY OF OXNARD LIVING WAGE REQUIREMENTS
EFFECTIVE JULY 1, 2022

SERVICE PROVIDER shall compensate any employee of SERVICE PROVIDER who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as Exhibit D. While this Agreement is in effect, SERVICE PROVIDER shall pay such employee no less than $18.22 per hour for each hour that such employee provides services under this Agreement. This hourly rate shall be adjusted on July 1, 2023, and each July 1 thereafter, according to the percentage change in the Consumer Price Index, all items, prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers (CPI-U), index base 1982-84=100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, SERVICE PROVIDER shall provide to such employee no less than 96 hours of paid leave per calendar year.

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

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

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

EXHIBIT E

TRADE SERVICES AGREEMENT
(CITY of Oxnard and Blackpointe Group Construction & Management, Inc.)

PREVAILING WAGE

1. SERVICE PROVIDER acknowledges that the Project defined in the Agreement between SERVICE PROVIDER and CITY is a "public work" as defined in Division 2, Part 7, Chapter 1 of the California Labor Code ("Chapter 1"), and that this Agreement is subject to Chapter 1 and the rules and regulations established by the Director of Industrial Relations ("DIR") implementing such statutes. SERVICE PROVIDER shall perform the Project as a public work. SERVICE PROVIDER shall comply with and be bound by all the terms, rules and regulations described in Chapter 1 and the DIR's rules and regulations as though set forth in full herein.

2. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. SERVICE PROVIDER acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and SERVICE PROVIDER shall post such rates at each job site covered by this Agreement.

3. SERVICE PROVIDER is required to post job site notices, as prescribed by regulation. See Labor Code Section 1771.4(a)(2).

4. SERVICE PROVIDER shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. SERVICE PROVIDER shall, as a penalty to CITY, forfeit not more than $200 for each calendar day or portion thereof for each worker paid less than the DIR's determined prevailing rates for the work or craft in which the worker is employed pursuant to this Agreement by SERVICE PROVIDER or any subcontractor. The Labor Commissioner shall determine the amount of the penalty as described in Section 1775.

5. SERVICE PROVIDER shall comply with Labor Code Section 1776, which requires SERVICE PROVIDER and each subcontractor to (1) keep accurate payroll records and verify such records in writing under penalty of perjury, (2) certify and make such payroll records available for inspection, and (3) inform CITY of the location of the records.

6. SERVICE PROVIDER shall comply with Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code Title 8, Section 200 et seq. concerning the employment of apprentices on public works projects for all apprenticeable occupations. Before commencing work under this Agreement, SERVICE PROVIDER shall provide CITY with a copy of the information submitted to any applicable apprenticeship program. Within 60 days after concluding the Project, SERVICE PROVIDER and each of its

subcontractors shall submit to CITY a verified statement of the journeyman and apprentice hours performed under this Agreement.

7. SERVICE PROVIDER may not be debarred or suspended throughout the Agreement Term pursuant to Labor Code Section 1777.1 or 1777.7. If he, she or it becomes debarred or suspended in the Agreement Term, SERVICE PROVIDER must immediately notify CITY.

8. SERVICE PROVIDER is not qualified to bid on, be listed in a Bid proposal, or engage in the performance of any contract for public work, as defined in Labor Code Sections 1720 through 1861, unless currently registered and qualified to perform public work pursuant to Labor Code Section 1725.5. SERVICE PROVIDER shall continue without interruption to stay registered and qualified to perform public work pursuant to Section 1725.5 for the duration of the term of this Agreement. This provision does not apply to construction, alteration, demolition, installation or repair work of $25,000 or less or to maintenance work of $15,000 or less.

9. SERVICE PROVIDER acknowledges that 8 hours labor constitutes a legal day's work. SERVICE PROVIDER shall comply with and be bound by Labor Code Section 1810.

10. SERVICE PROVIDER shall comply with and be bound by Labor Code Section 1813 concerning penalties for workers who work excess hours. SERVICE PROVIDER shall, as a penalty to CITY, forfeit $25 for each worker employed in the performance of this Agreement by SERVICE PROVIDER or by any subcontractor for each calendar day during which such worker is required or permitted to work more than 8 hours in any calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code Section 1815, work performed by SERVICE PROVIDER's employees in excess of 8 hours per day and 40 hours per week shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1 ½ times the basic rate of pay.

11. The Project listed in the Agreement is subject to compliance monitoring and enforcement by the DIR.

12. SERVICE PROVIDER shall be responsible for each and every one of its subcontractors' compliance with Chapter 1, the DIR's rules and regulations, and Labor Code Sections 1860 and 3700. SERVICE PROVIDER shall include in the written contract between it and each subcontractor a copy of, and a requirement that each subcontractor shall comply with, those statutory provisions. SERVICE PROVIDER shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractors' compliance, including without limitation, conducting a periodic review of the certified payroll records of each subcontractor, and upon becoming aware of the failure of the subcontractor to pay its workers the specified prevailing rate of wages, SERVICE PROVIDER shall diligently take corrective action to halt or rectify any failure.

13. To the maximum extent, SERVICE PROVIDER shall hold harmless, defend (with counsel approved by the City Attorney) and indemnify CITY, its legislative bodies, and its officials, officers, employees and agents from any demand or claim for damages, compensation, fines, penalties or other amounts arising out of or incidental to any acts or omissions listed above by any person or entity (including Service Provider, its subcontractors, and each of their officials, officers, employees and agents) in connection with any work undertaken or in connection with the Agreement, including without limitation the payment of all attorneys' fees and other related costs. All duties of SERVICE PROVIDER under this Section shall survive Agreement termination.

CITY COUNCIL AGENDA REPORT

INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. L.5

DATE: September 5, 2023

TO: City Council

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

SUBJECT: Trade Services Agreement 32400014 with SNF Polydyne Inc. dba Polydyne Inc. for the Supply and Delivery of Cationic Polymer to the Wastewater Division.

RECOMMENDATION

That the City Council approve and authorize the Mayor to execute an agreement with SNF Polydyne Inc. dba Polydyne Inc. (Polydyne) for an initial one-year term through September 6, 2024, with the option to extend through September 6, 2026, for a total contract not-to-exceed amount of $900,000, if extended, for the supply and delivery of cationic polymer to the Wastewater Division.

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

BACKGROUND

Processes at the Oxnard Wastewater Treatment Plant (OWTP) produce organic solids which are thickened, dewatered and hauled off-site for disposal. The cost of disposal is based on the volume and weight of the generated solids. Therefore, it is critical to reduce both the volume and weight of the solids. This reduction is enhanced with the addition of a cationic polymer at three locations during the treatment process:

- Primary Solids Thickeners
- Secondary Solids Thickeners
- Solids Dewatering

Polymers are common synthetic chemicals used in the wastewater process to aid in thickening and dewatering of solids. They are also proprietary chemicals developed and manufactured by a number of different chemical companies. Because each manufacturer's polymer formula is proprietary, a two-step, competitive process is completed to ensure the most cost-effective polymer with the highest performance is selected. This solicitation is completed every 3-5 years.

DISCUSSION

The Purchasing Department published Request for Proposal (RFP) PW 23-97 for the supply and delivery of cationic polymer to the Wastewater Division on April 4, 2023, with a proposal due date of June 16, 2023. Through this solicitation, interested vendors were invited to conduct bench scale (jar testing) and full scale testing at the OWTP to test the effectiveness of their polymer formulas prior to submitting their proposals.

Jar testing was conducted from April 10 - April 21, 2023, in which Solenis, LLC (Solenis) and SNF Polydyne Inc. (Polydyne) participated. Both vendors were given the opportunity to test their polymer formulas using Oxnard wastewater solids samples in a controlled lab setting.

Following the completion of the jar testing trials, vendors were allowed to bring forth one polymer formula to the full

scale testing trials. Full scale testing was conducted from April 24 - May 30, 2023, in which Solenis and Polydyne conducted effectiveness testing of their polymer on a larger scale. Following the conclusion of the full scale testing, RFP PW 23-97 received cost proposals from Solenis and Polydyne.

Proposals were reviewed by the Purchasing Division (Buyer) and the Wastewater Division (Operations Manager, Chief Operator, Laboratory Supervisor) with a determination of Polydyne to be the highest ranked proposer based on scoring criteria listed in RFP PW 23-97. The scoring criteria consisted of the performance of the polymer in the full scale test, cost, responsiveness and clarity of the proposal, and the proposer's past record of performance of similar work. Staff have also confirmed that Polydyne meets all required City contractual provisions including possession of a City business tax certificate, insurance certificates and corporate filing with the California Secretary of State. Based upon the available information and research performed to date, staff believes that Polydyne is capable of satisfactorily providing the necessary services.

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 Polydyne shall not exceed $900,000 over the term of three years and will commence September 6, 2023. The estimated spending plan is listed in the table below. These costs will be funded using available budget appropriations from the Wastewater Fund (611). Funding for this current fiscal year is included in the FY 2023-24 Adopted Budget and subsequent fiscal years will be requested through the annual budget process.

ESTIMATED SPENDING PLAN						
Division	**Account**	**FY 23-24 (9 Months)**	**FY 24-25 (12 Months)**	**FY 25-26 (12 Months)**	**FY 26-27 (3 Months)**	**Total**
Wastewater	6113614-52100	$225,000	$300,000	$300,000	$75,000	$900,000

COMMITTEE OUTCOME

The Public Works and Transportation Committee approved 3-0 on July 11, 2023 to approve the staff recommendation and to forward the item for Council approval.

Prepared by: Jan Hauser, Wastewater Division Manager, Joseph Marcinko, Assistant Public Works Director

ATTACHMENTS

1. Agreement 32400014

TRADE SERVICE AGREEMENT
BETWEEN
THE CITY OF OXNARD AND SNF POLYDYNE INC. DBA POLYDYNE INC.

By This Trade Services Agreement ("Agreement"), the CITY of Oxnard ("CITY") agrees to engage the services of SNF Polydyne Inc. DBA Polydyne Inc. ("SERVICE PROVIDER"), and SERVICE PROVIDER agrees to perform the services for CITY as herein described, for the compensation, during the term, and otherwise subject to the covenants and conditions herein set forth. CITY and SERVICE PROVIDER may be individually referred to as "Party" or collectively as the "Parties."

1. SUMMARY DESCRIPTION OF SERVICES. Supply and delivery of cationic polymer to the Oxnard Wastewater Division.

2. PARTIES.

CITY OF Oxnard ("CITY"), a general law and municipal corporation of the State of California, located at 300 West Third Street, Oxnard California 93030

SNF POLYDYNE INC. DBA POLYDYNE INC. ("SERVICE PROVIDER"), a corporation of the State of Delaware, located at 1 Chemical Plant Road, Riceboro, GA 31323

3. TERM OF AGREEMENT: From (Date): 9/6/23 To (Date): 9/6/24

3.1 Time is of the essence in this Agreement.

3.2 Any Optional Extension (initial term, plus any option to extend) shall not exceed a total of three (3) years. The CITY in its sole discretion may exercise the optional extension upon 60 days written notice to the SERVICE PROVIDER. SERVICE PROVIDER shall issue its written consent to the CITY's exercise of the option extension within 10 days of receipt of notice from the CITY. All Notices shall comply with Section 20 of this Agreement.

3.3 The CITY shall have the option for two (2) consecutive one-year (1) extensions. Any price increases or decreases shall be negotiated at time of contract extension. Any increase shall not exceed the Consumer Price Index for all Urban Consumers (CPI-U) for Los Angeles from the U.S. Bureau of Labor Statistics based on 12 month CPI-U for all items for May.

3.4 When in the CITY's best interest, this Agreement may only be extended if the City, in its discretion, exercises the option to extend pursuant to Section 3.2 and 3.3 of the Agreement. The initial term, plus any option to extend, shall not

exceed a total of five (5) years. **If no option to extend the Agreement appears in section 3.2 and 3.3, this Agreement shall not be extended.**

3.5 All services required of SERVICE PROVIDER under this Agreement shall be completed on or before the end of the term of the Agreement.

4. AGREEMENT AMOUNT NOT TO EXCEED: $900,000.00

5. AGREEMENT EXHIBITS: The following documents memorialized below are the only exhibits to this agreement and are incorporated by reference as though fully set forth herein. In the event of a conflict between the Exhibits and this Agreement, the Agreement controls.

Exhibit A: Scope of Services
Exhibit B: Schedule of Compensation
Exhibit C: Insurance Requirements
Exhibit D: Living Wage Policy
Exhibit E: Prevailing Wage Policy

6. DESIGNATED REPRESENTATIVES.

The Designated Representatives listed below shall be authorized to act on behalf of the named Party, be responsible for negotiations and contractual matters, and coordinate with each other to perform the services under this Agreement. Additionally, SERVICE PROVIDER's services shall be performed or immediately supervised by the SERVICE PROVIDER's Representative:

CITY Designated Representative:
Name: Roberto Fuentes
Title: Utility Supervisor
Phone: (805) 271-2203
Email: roberto.fuentes@oxnard.org
Mailing Address (if differs from above):
6001 Perkins Road
Oxnard, CA 93033

SERVICE PROVIDER Designated Representative:
Name: Boyd Stanley
Title: Sr. Vice-President
Phone: (800) 848-7659 opt. 2
Email: bids@polydyneinc.com
Mailing Address (if differs from above):

7. CONTRACTUAL PREREQUISITES.

7.1. This Agreement must first be executed by the SERVICE PROVIDER, after which the Agreement shall be approved as to form by the CITY Attorney, then executed by the Mayor, or an authorized person on behalf of the CITY, and if executed by the Mayor shall also be executed by the CITY Clerk.

7.2. A request for modification of the terms, prior to execution of the Agreement, must be made in writing and presented to the Designated Representative of the CITY prior to the time this Agreement is executed.

7.3. All proof of business license, insurance, and W-9 forms is required prior to execution of this Agreement.

7.4 SERVICE PROVIDER shall not perform any work under this Agreement until a proof of insurance has been provided to the City as required under Section 24 of this Agreement.

8. SERVICE PROVIDER'S SERVICES.

8.1 SERVICE PROVIDER shall perform the tasks, obligations, and services set forth in the "Scope of Services," attached to and incorporated into this Agreement as "Exhibit A." Once this Agreement is executed, the Scope of Services may only be modified by written Amendment pursuant to Section 12 of this Agreement.

8.2 The Services shall be coordinated with the designated City Project Manager set forth in Exhibit A subject to the direction of the City Manager or Department Director. SERVICE PROVIDER hereby designates its Project Manager as set forth in "Exhibit A" as the person responsible for the Services who shall coordinate with City's Project Manager in executing the scope of services under this Agreement.

9. COMPENSATION.

CITY shall pay SERVICE PROVIDER for the services performed pursuant to the terms of this Agreement in the time and manner set forth in the "Schedule of Compensation," attached to and incorporated into this Agreement as "Exhibit B." CITY shall pay SERVICE PROVIDER an amount not to exceed the amount is listed in Section 4 of this Agreement. Once this Agreement is executed, the Schedule of Compensation may only be modified by written Amendment pursuant to Section 12 of this Agreement, and may be subject to approval by the City Council.

10. PAYMENT & INVOICES.

The CITY shall pay all undisputed portions of any applicable invoice within thirty (30) days after receipt of an invoice. In the event the CITY disputes one or more items in an invoice, the CITY shall, within thirty (30) days after receipt of such invoice, notify the SERVICE PROVIDER of the item(s) being disputed and the reason(s) therefore. The CITY may withhold payment for such disputed items until resolution of the dispute.

10.1 Payment Request. SERVICE PROVIDER shall submit a payment request to CITY by the end of each calendar month listing the Services provided, costs of those Services, and total amount due for the month. Invoices may be emailed to: **invoices@oxnard.org**.

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

10.3 SERVICE PROVIDER's acceptance of final payment made pursuant to this Agreement shall constitute a release of CITY from all claims and liabilities for compensation to SERVICE PROVIDER 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 SERVICE PROVIDER 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 SERVICE PROVIDER and its employees, agents and Subcontracted service providers.

10.4 SERVICE PROVIDER 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 SERVICE PROVIDER or materials or products provided to CITY by SERVICE PROVIDER, SERVICE PROVIDER shall pay the sales tax. CITY shall not reimburse SERVICE PROVIDER for sales taxes paid by SERVICE PROVIDER.

11. [RESERVED]

12. MODIFICATION OF AGREEMENT.

This Agreement may be amended, modified, or otherwise altered, or its provisions waived, only upon mutual consent of the Parties by written amendment, and as authorized by the Oxnard Municipal Code, Article IV, Sections 4-59 and 4-60.

13. TERMINATION OF AGREEMENT.

CITY may terminate this Agreement at any time, with or without cause and without penalty, upon fifteen (15) calendar days' prior written notice pursuant to Section 31 of this agreement. Such termination shall be effective on the date specified in the notice, or if no date is specified, then fifteen (15) calendar days from the date of the notice. CITY shall be liable to SERVICE PROVIDER only for work done by SERVICE PROVIDER up to and including the date of termination of this Agreement unless the termination is for cause, in which event SERVICE PROVIDER need be compensated

only to the extent required by law. SERVICE PROVIDER may terminate this Agreement at any time during the term of the Agreement by giving the CITY sixty (60) calendar days' written notice.

14. INDEPENDENT CONTRACTOR

SERVICE PROVIDER 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 SERVICE PROVIDER or any of its employees, except as stated in this Agreement. SERVICE PROVIDER 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 SERVICE PROVIDER. This Agreement shall not be interpreted to prevent or preclude SERVICE PROVIDER from rendering any services for SERVICE PROVIDER's own account or to any other person or entity as SERVICE PROVIDER in its sole discretion shall determine; provided, however, that performing such services shall not materially interfere with the Services the SERVICE PROVIDER shall perform for the City. The CITY retains the right to provide general instructions to and observe the SERVICE PROVIDER in the performance of all services done on behalf of the CITY.

SERVICE PROVIDER 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. SERVICE PROVIDER and its employees are not employees of City. SERVICE PROVIDER 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. SERVICE PROVIDER shall not, at any time or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of City.

15. LAWFUL PERFORMANCE.

SERVICE PROVIDER shall abide by all Federal, State, and Local Laws and Regulations as may be related to the performance of duties under this Agreement. SERVICE PROVIDER, at its sole expense, shall obtain and maintain during the term of this Agreement, all appropriate permits, licenses, and certificates that may be required in connection with the performance of services under this Agreement.

16. SAFETY REQUIREMENTS.

SERVICE PROVIDER shall not perform any services for the CITY when the SERVICE PROVIDER is impaired by alcohol or a controlled substance. When there is reasonable cause to believe that any person has violated this provision, that person shall be immediately removed from the premises and be subject to any applicable civil

and/or criminal penalties under the CITY's Code and/or under state law. All work performed under this Agreement shall be performed in such a manner as to provide safety to the public. The CITY reserves the right to issue restraining or cease and desist orders to SERVICE PROVIDER when unsafe or harmful acts are observed or reported relative to the performance of the work under this Agreement. The acceptance of SERVICE PROVIDER's work by CITY shall not operate as a release of the SERVICE PROVIDER from such standard of care and workmanship.

17. OWNERSHIP OF SERVICE PROVIDER'S WORK PRODUCT, CONFIDENTIALITY & DISCLOSURE.

CITY shall be the owner of any and all technical documents and records, including, computations, plans, correspondence, and/or other pertinent data and information, both hard copy and electronic, gathered or prepared by SERVICE PROVIDER in performance of this Agreement and shall be entitled to immediate possession of the same upon completion of the work under this Agreement, or at any earlier or later time when the same may be requested by CITY.

17.1. Records and Inspections. The SERVICE PROVIDER shall maintain full and accurate records, with respect to all services and matters covered under this Agreement. The CITY shall have free access at all reasonable times to such records, both hard copy and electronic, and the right to examine and audit the same and to make transcripts therefrom, and to inspect all program data, documents, proceedings, and activities.

17.2. Deliverables. SERVICE PROVIDER shall deliver to the CITY the studies, plans, specifications, or other documents as are identified in the Scope of Services; and SERVICE PROVIDER shall, upon completion of all work, submit to the CITY all information developed in the course of the SERVICE PROVIDER's services. SERVICE PROVIDER shall, in such time and in such form as the CITY may require, furnish reports concerning the status of services required under this Agreement. SERVICE PROVIDER shall, upon request by CITY and upon completion or termination of this Agreement, deliver to the CITY all material furnished to SERVICE PROVIDER by the CITY.

17.3. Ownership – Generally. All inventions, discoveries, enhancements, changes, or improvements of computer programs developed pursuant to this Agreement shall be the property of the CITY, and all patents or copyrights shall be assigned to the CITY, unless otherwise agreed. SERVICE PROVIDER agrees that CITY may make modifications to computer software furnished by SERVICE PROVIDER without infringing SERVICE PROVIDER's copyright or any license granted to CITY, unless otherwise agreed.

17.4. Ownership of Documents. Every report, draft, work product, map, record, and other document reproduced, prepared, or caused to be prepared by

the SERVICE PROVIDER pursuant to or in connection with this Agreement shall be the exclusive property of the CITY.

17.5. Confidentiality. Information that is exempt from disclosure to the public is confidential. This includes information relating to the past, present, or future affairs of the City or information belonging to a third party whose information is in the City's possession or control under obligations of confidentiality. SERVICE PROVIDER may be granted access to information that is exempt from disclosure to the public (Government Code Section 6254 and 6254.16) and may contain "trade secrets" (see Government Code Section 6254.7(d)) when it is necessary for SERVICE PROVIDER to perform its obligations pursuant to this Agreement. If SERVICE PROVIDER is granted such access to confidential information, SERVICE PROVIDER shall not be considered to be a member of the public as that term is used in Government Code Section 6254.5.

17.6. Disclosure of Information. SERVICE PROVIDER shall not disclose, publish, or authorize others to disclose or publish, design data, drawings, specifications, reports, or other information pertaining to the projects assigned to SERVICE PROVIDER by the CITY or other information to which the SERVICE PROVIDER has had access during the term of this Agreement without the prior written approval of the CITY's Designated Representative during the term of this Agreement and for a period of two (2) years after the termination of this Agreement.

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

18. ASSIGNMENT.

This Agreement is for the non-professional services of SERVICE PROVIDER. Any attempt by SERVICE PROVIDER to assign the benefits or burdens of this Agreement without the prior written approval of CITY shall be prohibited and shall be null and void. SERVICE PROVIDER's services pursuant to this Agreement shall be provided by the SERVICE PROVIDER's Designated Representative or directly under his/her supervision, and SERVICE PROVIDER shall not assign another to supervise the SERVICE PROVIDER's performance of this Agreement without the prior written approval of CITY, by and through the CITY's Designated Representative.

19. NOTICE OF BREACH AND OPPORTUNITY TO CURE.

Neither Party will be in breach of this Agreement where the breach is capable of being cured, or until written notice of the breach is received from the non-breaching Party. The Party charged with breach will have fifteen (15) calendar days from the date

of receiving such notice in which to cure the breach or otherwise respond. If the circumstances leading to the charge that the Agreement was breached have not been cured or explained to the satisfaction of the other Party within fifteen (15) days from the date on which the breaching Party received notice of breach, the non-breaching Party may terminate this Agreement.

20. NOTICES.

All notices given or required to be given pursuant to this Agreement shall be in writing and may be given by personal delivery or by first-class mail. Notice sent by mail shall be addressed to each Party's Designated Representative as set forth above in Section 6. When addressed in accordance with this Section, such notice shall be deemed given upon deposit in the United States mail, postage prepaid. In all other instances, notices shall be deemed given at the time of actual delivery. Changes may be made in the names or addresses of persons to whom notices are to be given by giving notice in the manner prescribed in this Section.

21. COVENANTS AND CONDITIONS.

Each term and each provision of this Agreement to be performed by SERVICE PROVIDER shall be construed to be both a covenant and a condition.

22. WAIVER.

CITY's review or acceptance of, or payment for, work product prepared by SERVICE PROVIDER under this Agreement will not be construed to operate as a waiver of any rights CITY may have under this Agreement or of any cause of action arising from SERVICE PROVIDER's performance. A waiver by CITY of any breach of any term, covenant, or condition contained in this Agreement will not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained in this Agreement, whether of the same or different character.

23. INDEMNIFICATION, HOLD HARMLESS & DEFENSE.

23.1 As a separate and independent covenant from SERVICE PROVIDER's obligations under this section, SERVICE PROVIDER shall to the fullest extent permitted by law, immediately defend, indemnify, and hold harmless CITY, its legislative and advisory bodies, and the CITY's officials, directors, officers, employees, and agents (the "Indemnitees") from and against all liabilities regardless of nature, type, or cause, arising out of or resulting from or in connection with SERVICE PROVIDER's performance of this Agreement or SERVICE PROVIDER's failure to comply with any of its obligations contained in this Agreement. Liabilities subject to the duties to defend and indemnify include, without limitation, all claims, losses, damages, penalties, fines, and judgments; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative

dispute resolution. SERVICE PROVIDER's obligation to indemnify applies unless it is adjudicated that any of the liabilities covered by this Section are the result of the sole active negligence or sole willful misconduct of any of the Indemnitees.

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

23.3 The review, acceptance or approval of SERVICE PROVIDER's work or work product by any of the Indemnitees shall not affect, relieve or reduce SERVICE PROVIDER's indemnification or defense obligations. SERVICE PROVIDER waives any right of contribution against CITY or any of CITY's officers, employees, agents, or volunteers arising out of such failure to inspect, review, monitor, or supervise the work performed by SERVICE PROVIDER pursuant to this Agreement. The provisions of this Section shall not be restricted by and do not affect the provisions of this Agreement relating to Section 24. The SERVICE PROVIDER's obligations under this Section of the Agreement shall survive the termination of the Agreement.

23.4 SERVICE PROVIDER agrees to pay all required taxes on amounts paid to SERVICE PROVIDER 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. SERVICE PROVIDER shall be solely responsible for, and shall save CITY harmless from, all matters relating to the payment of SERVICE PROVIDER'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 SERVICE PROVIDER under this Agreement any amount due to CITY from SERVICE PROVIDER as a result of its failure to promptly pay to CITY any reimbursement or indemnification

arising under this Section.

24. INSURANCE.

SERVICE PROVIDER shall obtain and maintain during the performance of any services under this Agreement the insurance coverages listed within "Exhibit C", which is attached hereto and incorporated herein by this reference, unless the Risk Manager waives, in writing, the requirement that SERVICE PROVIDER obtain and maintain such insurance coverages. Such insurance must be issued by a company satisfactory to the Risk Manager. SERVICE PROVIDER shall, before performance of any Services pursuant to this Agreement, file with the Risk Manager evidence of insurance coverage as specified in "Exhibit C". Maintenance of insurance coverages by SERVICE PROVIDER is a material element of this Agreement. SERVICE PROVIDER'S failure to maintain or renew insurance coverages or to provide renewal evidence shall be considered a material breach of this Agreement.

25. LIVING WAGE REQUIREMENTS.

During the term of this Agreement, SERVICE PROVIDER understands and agrees that if Living Wages are applicable subject to the 2002 Oxnard City Council Living Wage Policy, attached as "Exhibit D" to this Agreement. SERVICE PROVIDER will pay and/or provide the wages and/or benefits required therein to all of its employees engaged in whole or in part in performing the services provided for by this Agreement. The duty to pay the correct wage is the responsibility of the SERVICE PROVIDER.

26. PREVAILING WAGE REQUIREMENTS.

26.1. Application. The payment of State prevailing wages as designated for Ventura County shall apply to public works projects. However, this section shall not apply to work performed on a public works project of twenty-five thousand dollars ($25,000) or less when the project is for construction, alteration, demolition, installation, or repair work; or to work performed on a public works project of fifteen thousand dollars ($15,000) or less when the project is for maintenance work. Prevailing wages are required to be paid to all workers, including subcontracted employees.

26.2. Compliance with California Department of Industrial Relations (DIR). To determine if this Agreement is subject to compliance monitoring and enforcement, go to:
https://www.dir.ca.gov/Public-Works/PublicWorksSB854FAQ.html

26.3. Contract Splitting. It is unlawful to split, or separate into small portions, work orders, projects, purchases, or public works projects for the purpose of evading these prevailing wage requirements.

26.4. **Use of Prevailing Wages vs. Living Wages.** In the event that there is a difference between the amount of wages to be paid under the CITY of Oxnard's local Living Wage requirements and the requirements of this provision, the wage rate that is the higher of the two shall be applicable to this Agreement. The duty to pay the correct wage is the responsibility of the SERVICE PROVIDER.

27. CONFLICT OF INTEREST

SERVICE PROVIDER covenants that it does not have any interest, nor shall it acquire any interest, directly or indirectly, which would conflict in any manner with the performance of SERVICE PROVIDER's services under this Agreement. SERVICE PROVIDER further covenants that in the performance of services under this Agreement, no officer, employee or agent of SERVICE PROVIDER having such interest shall be employed by it. In the event the CITY determines that SERVICE PROVIDER must disclose its financial interests by completing and filing a Fair Political Practices Commission Form 700, Statement of Economic Interests, SERVICE PROVIDER shall file such Form 700 with the CITY Clerk's Office pursuant to the written instructions provided by the CITY Clerk. Acquisition or maintenance of a conflicting interest by SERVICE PROVIDER may result in termination of this Agreement by the CITY.

28. [RESERVED]

29. [RESERVED]

30. DISPUTES.

Except as otherwise provided in these provisions, any dispute concerning a question of fact arising under this Agreement, shall be decided by the CITY's Designated Representative, who shall reduce this decision to writing and mail a copy to the SERVICE PROVIDER. The decision of the CITY's Designated Representative shall be final and conclusive unless SERVICE PROVIDER requests mediation within ten (10) calendar days. Pending final decision of a dispute, the SERVICE PROVIDER shall proceed diligently with the performance of the Agreement and in accordance with the decision of the CITY's Designated Representative.

31. DISPUTE RESOLUTION.

Should an unresolved dispute arise out of this Agreement, any Party may request that it be submitted to mediation. The Parties shall meet in mediation within a reasonable time not to exceed forty five (45) days of a request. The mediator shall be agreed to by the mediating Parties. In the absence of an agreement on a mediator, the Parties shall each submit one name from mediators listed by the American Arbitration Association, the California State Board of Mediation and Conciliation, or other agreed-

upon service. The mediator shall be selected by a “blindfold” process. The cost of mediation shall be borne equally by both Parties. Neither Party shall be deemed the prevailing Party. No Party shall be permitted to file a legal action without first meeting in mediation and making a good faith attempt to reach a mediated settlement. The mediation process, once commenced by a meeting with the mediator, shall last until agreement is reached by the Parties but not more than sixty (60) calendar days, unless the maximum time is extended in writing by both Parties.

32. AUDIT.

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

33. ADVERTISING AND PUBLICITY

SERVICE PROVIDER shall not use the name of or refer to CITY directly or indirectly in any advertisement, news release, or professional or trade publication without prior written approval from the City Manager. This Section shall survive the termination of this Agreement.

34. NONDISCRIMINATORY EMPLOYMENT.

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

35. FORCE MAJEURE.

Neither the SERVICE PROVIDER nor the CITY shall be responsible for any delay caused by any contingency beyond their control, including, but not limited to, war or insurrection, walkouts by the Party's own employees, fires, natural calamities, riots, or demands or requirements of governmental agencies other than the CITY.

36. GOVERNING LAW.

The terms of this Agreement shall be interpreted according to the laws of the State of California. Should litigation occur, venue shall be in the Superior Court of California, County of Ventura.

37. SEVERABILITY.

If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, then such portion will be deemed modified to the extent necessary in the opinion of the court to render such portion enforceable and, as so modified, such portion and the balance of this Agreement will continue in full force and effect and be enforceable.

38. INTEGRATED AGREEMENT.

This Agreement and the attached exhibits referenced herein to this Agreement represent the entire understanding between the Parties. No verbal agreement or implied covenant shall be held to vary the provisions of this Agreement. This Agreement shall bind and inure to the benefit of the Parties to this Agreement and any subsequent successors and assigns.

39. NO THIRD-PARTY BENEFICIARY.

This Agreement shall not be construed to be an agreement for the benefit of any third-party or parties, and no third party or parties shall have any claim or right of action under this Agreement.

40. AUTHORITY TO EXECUTE.

Each Party hereto expressly warrants and represents that through its Designated Representative it has the authority to execute this Agreement on behalf of its corporation, partnership, business entity, or governmental entity, and warrants and represents that the Designated Representative has the authority to bind each Party to the performance of its obligations hereunder.

41. EXECUTION – COUNTERPARTS.

This Agreement may be executed in any number of counterparts and each such duplicate counterpart shall constitute an original, but they shall not be effective nor enforceable unless and until it is executed with the handwritten signature of an authorized representative of each of the relevant Parties. No counterpart shall be deemed to be an original or presumed delivered unless and until the counterpart executed by the other Party to this Agreement is in the physical possession of the Party seeking enforcement thereof.

42. INCONSISTENT OR CONFLICTING TERMS.

In the event of any contradictions or inconsistencies between any attached documents or exhibits incorporated by reference herein and the provisions of the Agreement itself, the terms of the Agreement shall control. Any exhibit that is attached and incorporated by reference shall be limited to the purposes for which it is attached, as specified in this Agreement. Any contractual terms or conditions contained in such exhibit imposing additional obligations on the CITY are not binding upon the CITY's Designated Representative unless specifically agreed to in writing, and initiated by CITY's Designated Representative, as to each additional contractual term or condition.

43. ACKNOWLEDGEMENT.

By signing below, SERVICE PROVIDER acknowledges that it has reviewed the CITY's Trade Services Agreement terms and conditions and insurance requirements and that SERVICE PROVIDER hereby agrees to full compliance.

[Signatures on next page]

In witness whereof, the Parties have entered into this Agreement on the date as written in section 3 and upon signature of all Parties.

CITY OF OXNARD

☐John C. Zaragoza, Mayor[1] Date

☐Jennifer Yates, [2]
Purchasing Manager

ATTEST:

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

APPROVED AS TO FORM:

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

SNF POLYDYNE INC. DBA POLYDYNE INC.

Boyd Stanley, Sr. Vice-President Date

Mark Schlag, Assistant Secretary[3] Date

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

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

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

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

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

EXHIBIT A

TRADE SERVICE AGREEMENT
(CITY of Oxnard and SNF POLYDYNE INC. DBA POLYDYNE INC.)

SCOPE OF SERVICES

1000-1 SCOPE OF WORK

The Contractor shall furnish all necessary labor, materials, equipment and other incidental and appurtenant Work to Supply and deliver Polymer for the City of Oxnard Wastewater Treatment Plant located at 6001 Perkins Rd. Oxnard, CA 93033.

The scope of Work shall include, but not be limited to:

1. Supply and delivery of Polymer for the purpose of dewatering at the solids processing building
2. Supply and delivery of Polymer for the purpose of Thickening at the Dissolved Air Flotation
3. Polymer supplied must meet minimum requirements as specified in the full scale test.

To be considered for selection, bidders must first partake in a prequalification bench scale test and full scale test.

GENERAL

The Polymer bench test will be conducted from **10-21 April 2023.** Bidders are to contact Eric Ngo, Wastewater Laboratory Supervisor, at (805) 271-2207 to schedule a test session(s). There will be a maximum of two (2) test sessions scheduled per day, Tuesday through Friday. The morning session will begin 8:00 A.M. and end at 12:00 P.M. The second session will begin at 1:00 P.M, and end at 5:00 P.M.

No jar test samples will be allowed to be drawn prior to Bidder's scheduled day of Polymer bench test (free water drainage test). Bidders will be allotted a four (4) hour block of time to complete all jar work and testing.

Bidders are expected to attend their scheduled session, and be completely prepared to begin and end at their scheduled time. Test session(s) may be suspended, at City discretion, if Bidders are not prepared to start on time, or are exceeding their time allowed. A test session will only be rescheduled if either the bidder or the City is prevented by "force majeure". As used in this context "force majeure" means fire, explosion, action of the elements, interruption of public transportation, unusually severe weather conditions, or any cause, which is beyond the control of the party affected, and which, by exercise of reasonable diligence, could not have been prevented. Problems or delays encountered during the test session(s) are to be noted on the Polymer Trials Form.

Prior to pre-qualification testing, the Vendor must provide to the City the Safety Data Sheet and Product Bulletin for each proposed emulsion polymer. The Product Bulletin shall include the total solids and viscosity of the material. The vendor shall provide one (1) sample of each of the proposed emulsion polymer products for the City prior to the commencement of the prequalification testing.

Although the bench testing and full scale testing will be for the belt press units, the polymer selected must also work in the Dissolved Air Floatation (DAF) tanks at the wastewater treatment plant. Failure of the polymer to work in the DAF units may result in that bid being rejected. Polymers supplied shall be clean and free of foreign substances. Vendors must provide a certificate of analysis for each delivery of product.

BENCH TEST

STEP A – POLYMER BENCH TEST

Free water drainage test. The City's belt press weave material will be utilized for the funnel test. Vendor is responsible for supplying all necessary equipment to make down their polymer solutions and perform mixing of polymer/sludge mixture.

The City will supply:
- Buchner funnel with belt filter press weave
- Stopwatch
- Feed solids sample

Procedure: The City shall provide the Vendor with feed solids. The City makes no guarantee as to feed solids, "sludge", content or consistency during any phase of sampling or testing.

POLYMER BENCH TEST

The Vendor will:

- Dose empty beaker with desired amount of polymer
- Fill second empty beaker with 200 ml of feed sample
- Mix polymer and sample until desired floc and water separation is attained
- Pour sample (with polymer) into funnel with belt weave

The City representative will immediately begin timer. At 20 seconds, the City will measure the volume of free water drainage into the graduated cylinder.

In order to qualify for the trials, 70% of a 200 ml sample must run through the belt weave within 20 seconds.

Based on the bidder's bench test results, the City will either reject the product or pre-qualify the Bidders selected emulsion polymer(s) for the full-scale belt press trial phase. The City's decision shall be final. Bidders will be notified by letter with individual results of bench test & if product(s) has been pre-qualified. Bidders who have products(s) pre-qualified must contact Wastewater Chief Plant Operator at 805-612-7771 to schedule a full-scale belt press test.

POLYMER EVALUATION FORMULA

All samples will be analyzed for percent total solids by the City. Dosing points in the sample set which meet established minimums (97% capture, 19% cake solids) would be considered a qualifying point. Averages of cake total solids, solids capture and dosage data for the four (4) lowest qualifying points (in terms of cake total solids) will be used in the bid evaluation formula. The following polymer evaluation formula will be utilized by the City to assist in determining the award of the bid.

Analytical results for each qualifying trial run will be calculated as follows. The polymer dosage which results in the lowest overall cost (TOTAL POLYMER COSTS) will be used for bid evaluation purposes.

The polymer evaluation formula consists of the following:

1. Polymer dosing cost factor:

(X) * (P)

2. Sludge disposal cost factor:

$[(1 \text{ DT/yr}) / (A_t / 100)] - [(1 \text{ DT/yr}) / (A_c /100)] * \$49.00/\text{WT}$

3. Dewatering recovery cost factor:

[(1 - (R/100))] *(X) * (P)

4. Total Polymer Cost (1+2+3)

Where: X= Polymer Dosage, lbs. per dry ton

R= Solids Recovery in Percent

P= Polymer Price Per bid $/lb

A_t= Total Cake Solids for trial polymer in percent

A_c= Total Cake Solids for control in polymer in percent (19%TS)

FULL SCALE TEST

Point of Contact Information:

Roberto Fuentes

PH: 805-797-7013

Email: Roberto.fuentes@oxnard.org

To be conducted from **24 April through 12 May 2023.** Any polymer used during the full scale belt press test must be supplied at no cost to the City. City will supply a scale to weigh Polymer container for full scale test.

Each successful bidder will be allowed to full-scale trial one (1) pre-qualified product. If Bidders have more than one product pre-qualified, they must make the decision as to which product they will submit for the full scale test. Bidders will be allowed a maximum of six (6) hours to complete testing. The bidder shall provide emulsion polymer identical to the product pre-qualified from the bench test. Only two vendor personnel will be allowed in the solids processing building during that testing.

The neat emulsion polymer delivered by the bidder must not contain solidified masses of polymer and must be 100 percent in solution when mixed by means of the City's polymer solution batch mixing procedure. Polymer not meeting this specification can cause clogging in the City's polymer feed system and will automatically be rejected by the City. The trial polymer will be batched to a concentration selected by the bidder. Mixed polymer will be fed to one belt press dewatering machine.

The bidder shall provide an optimum polymer dose rate. Sludge flow rate as well as other variables will be kept constant while the polymer dose rate is varied. Steady conditions will be achieved and samples will be collected to analyze feed solids, cake solids, and filtrate.

The desired polymer performance parameters are
- Achieve 19% total solids
- Attain 97% solid capture rate

<u>Procedure:</u>

1. The Vendor shall submit no more than one (1) product for trial. The Vendor must deliver enough polymer for up to six (6) hours testing.
2. Immediately before the trial begins, the totalizer readings for sludge and the tank level for the test polymer will be taken. A sample of the neat polymer used will be taken for analysis by the City for total active substance.
3. Once the Vendor is ready, the trial sludge feed rate of between 85-95 gallons per minute will be dewatered. Then the polymer will be adjusted accordingly to produce the driest cake, at the above sludge feed rate. Wastewater personnel will make all necessary adjustments.
4. Thirty (30) minutes after the trial starts, three (3) samples will be taken by City Operators.

a. Feed for solids content
b. Cake for solids content

c. Filtrate for solids content

5. Thereafter, the City will collect three (3) sets of samples every thirty (30) minutes, on feed, cake, and filtrate, for the remainder of the trial.

Vendors must make every effort to ensure that testing stays within their scheduled session. If the Vendor is unable to complete the testing within their scheduled session, the City may, at their discretion, either schedule another test session or disallow any further testing of the Bidder's product. Should some unforeseen situation occur that is the responsibility of the City, i.e., City owned equipment failure, the City will allow the Vendor to re-schedule a session using the prequalified product.

6. After the trial, totalizer readings for sludge and tank level for polymer will be annotated by the City on the attached Polymer Trials Form.

7. Polymer trial information, and any discrepancies noted by either party, will be recorded on the Polymer Trials Form. Blank copies of this form will be made available at the trial sessions. Once the form is completed, it should be signed by the Vendor and the City representative. The Bidder may request a copy of the form be given them prior to their departure from the plant.

All samples used in the full scale trial will be tested for total polymer active substance to determine yearly usage amounts. The Oxnard Wastewater Laboratory will conduct the analysis on all feed cake, filtrate samples and total polymer active substance. Testing will be conducted in accordance with Standard Methods for Examination of Water and Wastewater, 21st Edition, Method 2540G (total, fixed, and volatile solids in solid and semi-solid samples).

Based on the test results, the City will determine the polymer dosage rate. The trial polymer must achieve the minimum performance to qualify for bidding.

The net quantity of each Bidder's polymer may vary due to the difference in performance as determined by the City. The City will issue an addendum after performance testing. The addendum will provide polymer consumption data for each product based on the active pounds of polymer used per dry ton of sludge and verified by the City's lab results for active substance. The polymer dosage rate, as determined during the polymer trials, will be applied to the estimated quantity of sludge to be dewatered during the contract period (currently estimated to be 4 million gallons per year). An annual emulsion polymer consumption amount required to dewater the City's sludge shall be calculated for each product. Bidders shall utilize the data provided to them by the City, to assist them in completing their bid proposal. Bidders shall have their polymer containers removed within five Days after their trial. Bidder's equipment shall be removed by the end of the day of completion of their trial. Any containers or equipment that is not removed within the time frame(s) specified will be removed by the City and the Bidder billed for the expense.

The chosen polymer shall have no apparent separation. Prior to the Polymer mixing chamber the Neat Polymer shall not cause plugging or gelling. During full scale test, separation of polymer or plugging issues will be cause for rejection of the polymer.

EXHIBIT B

TRADE SERVICE AGREEMENT
(CITY of Oxnard and SNF POLYDYNE INC. DBA POLYDYNE INC.)

SCHEDULE OF COMPENSATION

ITEM NO.	DESCRIPTION	UNIT	Total
1	Polymer type	Pounds	$1.62 per pound
		BID TOTAL	$1.62 per pound

EXHIBIT C

TRADE SERVICES AGREEMENT
(CITY of Oxnard and SNF POLYDYNE INC. DBA POLYDYNE INC.)

INSURANCE REQUIREMENTS

Prior to contract approval, CONSULTANT/SERVICE PROVIDER/SELLER/BIDDER (hereafter referred to as "SERVICE PROVIDER") must procure, agree to maintain and supply evidence of insurance at the levels listed and in accordance with the other provisions listed in this document.

[See next pages]

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

1. Vendor shall obtain and maintain during the performance of any services under this Agreement the following insurance against claims for injuries to persons or damages to property which may arise from or in connection with the sale and delivery, installation or maintenance of products by vendor, its agents, representatives, or employees.

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

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

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

2. Vendor shall, prior to performance of any services, file with the Risk Manager certificates of insurance with original endorsements effecting coverage required by this Exhibit INS-I. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on the attached forms or on other forms approved by the Risk Manager. All certificates and endorsements are to be received and approved by the Risk Manager before work commences. City reserves the right to require complete certified copies of all required insurance policies at any time. The certificates of insurance and endorsements shall be sent via email. If you have not received your request or are having difficulty with electronic upload, contact insurance@oxnard.org

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

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

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

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

6/23

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

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

Endorsement Forms

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

INS-I.doc

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER

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

CODE SUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY LETTER A SPECIFY COMPANY NAMES IN THIS SPACE

COMPANY LETTER B

COVERAGES

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

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	**GENERAL LIABILITY** [x] COMMERCIAL GENERAL LIABILITY [x] CLAIMS MADE [x] OCCUR. [x] OWNER'S & CONTRACTOR'S PROT.				GENERAL AGGREGATE $1,000,000 PRODUCTS COMP/OP AGG. $1,000,000 PERSONAL & ADV. INJURY $1,000,000 EACH OCCURRENCE $1,000,000 FIRE DAMAGE (Any one fire) $ MED. EXPENSE (Any one person) $
A	**AUTOMOBILE LIABILITY** [x] ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS GARAGE LIABILITY				COMBINED SINGLE 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**				

SAMPL

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

CERTIFICATE HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

CANCELLATION

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

AUTHORIZED REPRESENTATIVE

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

SUBMIT IN DUPLICATE

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

PRODUCER

Telephone:

NAMED INSURED

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

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

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

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

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

☐ Claims Made
Retroactive Date _____
☐ Occurrence

COVERAGES

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

OTHER PROVISIONS

Underwriter=s representative for claims pursuant to this insurance.

CLAIMS:
Name: _____
Address: _____
_____
Telephone: (____) _____

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

INSURED. The City, its officers, agents, employees and volunteers are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.

CONTRIBUTION NOT REQUIRED. As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.

SEVERABILITY OF INTEREST. This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.

CANCELLATION NOTICE. With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.

PROVISIONS REGARDING THE INSURED'S DUTIES. Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.

SCOPE OF COVERAGE. This policy, if primary, affords coverage at least as broad as:
Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG0001; or
If excess, affords coverage which is at least as broad as the primary insurance form CG0001.

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

ENDORSEMENT HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

AUTHORIZED REPRESENTATIVE

☐ Broker/Agent ☐ Underwriter ☐ _____

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

Signature _____
(original signature required)

Telephone: ( ) Date Signed _____

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

SUBMIT IN DUPLICATE

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

PRODUCER

Telephone:

NAMED INSURED

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

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

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

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

☐ COMMERCIAL AUTO POLICY
☐ BUSINESS AUTO POLICY
☐ OTHER

LIMIT OF LIABILITY

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

OTHER PROVISIONS

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.

CONTRIBUTION NOT REQUIRED. As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.

SEVERABILITY OF INTEREST. This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.

CANCELLATION NOTICE. With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.

PROVISIONS REGARDING THE INSURED'S DUTIES. Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.

SCOPE OF COVERAGE. This policy, if primary, affords coverage at least as broad as:
Insurance Services Office Automobile Liability Coverage, "occurrence" form CA0001, code ("any auto"); or
If excess, affords coverage which is at least as broad as the primary insurance form referenced in the preceding section (1).

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

ENDORSEMENT HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

AUTHORIZED REPRESENTATIVE

☐ Broker/Agent ☐ Underwriter ☐ _____

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

Signature _____

(original signature required)

Telephone: ( ) Date Signed _____

EXHIBIT D

TRADE SERVICES AGREEMENT
(CITY of Oxnard and SNF POLYDYNE INC. DBA POLYDYNE INC.)

LIVING WAGE POLICY

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

A. SERVICE PROVIDER shall compensate any employee of SERVICE PROVIDER who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as the Living Wage Policy Exhibit. While this Agreement is in effect, SERVICE PROVIDER shall pay such employee no less than $18.22 per hour for each hour that such employee provides services under this Agreement. In addition, while this Agreement is in effect, SERVICE PROVIDER shall provide to such employee no less than 96 hours of paid leave per calendar year.

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

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

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

CITY OF OXNARD LIVING WAGE REQUIREMENTS
EFFECTIVE JULY 1, 2022

SERVICE PROVIDER shall compensate any employee of SERVICE PROVIDER who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as Exhibit D. While this Agreement is in effect, SERVICE PROVIDER shall pay such employee no less than $18.22 per hour for each hour that such employee provides services under this Agreement. This hourly rate shall be adjusted on July 1, 2023, and each July 1 thereafter, according to the percentage change in the Consumer Price Index, all items, prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers (CPI-U), index base 1982-84=100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, SERVICE PROVIDER shall provide to such employee no less than 96 hours of paid leave per calendar year.

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

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

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

EXHIBIT E

TRADE SERVICES AGREEMENT
(CITY of Oxnard and SNF POLYDYNE INC. DBA POLYDYNE INC.)

PREVAILING WAGE

1. SERVICE PROVIDER acknowledges that the Project defined in the Agreement between SERVICE PROVIDER and CITY is a "public work" as defined in Division 2, Part 7, Chapter 1 of the California Labor Code ("Chapter 1"), and that this Agreement is subject to Chapter 1 and the rules and regulations established by the Director of Industrial Relations ("DIR") implementing such statutes. SERVICE PROVIDER shall perform the Project as a public work. SERVICE PROVIDER shall comply with and be bound by all the terms, rules and regulations described in Chapter 1 and the DIR's rules and regulations as though set forth in full herein.

2. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. SERVICE PROVIDER acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and SERVICE PROVIDER shall post such rates at each job site covered by this Agreement.

3. SERVICE PROVIDER is required to post job site notices, as prescribed by regulation. See Labor Code Section 1771.4(a)(2).

4. SERVICE PROVIDER shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. SERVICE PROVIDER shall, as a penalty to CITY, forfeit not more than $200 for each calendar day or portion thereof for each worker paid less than the DIR's determined prevailing rates for the work or craft in which the worker is employed pursuant to this Agreement by SERVICE PROVIDER or any subcontractor. The Labor Commissioner shall determine the amount of the penalty as described in Section 1775.

5. SERVICE PROVIDER shall comply with Labor Code Section 1776, which requires SERVICE PROVIDER and each subcontractor to (1) keep accurate payroll records and verify such records in writing under penalty of perjury, (2) certify and make such payroll records available for inspection, and (3) inform CITY of the location of the records.

6. SERVICE PROVIDER shall comply with Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code Title 8, Section 200 et seq. concerning the employment of apprentices on public works projects for all apprenticeable occupations. Before commencing work under this Agreement, SERVICE PROVIDER shall provide CITY with a copy of the information submitted to any applicable apprenticeship program. Within 60 days after concluding the Project,

SERVICE PROVIDER and each of its subcontractors shall submit to CITY a verified statement of the journeyman and apprentice hours performed under this Agreement.

7. SERVICE PROVIDER may not be debarred or suspended throughout the Agreement Term pursuant to Labor Code Section 1777.1 or 1777.7. If he, she or it becomes debarred or suspended in the Agreement Term, SERVICE PROVIDER must immediately notify CITY.

8. SERVICE PROVIDER is not qualified to bid on, be listed in a Bid proposal, or engage in the performance of any contract for public work, as defined in Labor Code Sections 1720 through 1861, unless currently registered and qualified to perform public work pursuant to Labor Code Section 1725.5. SERVICE PROVIDER shall continue without interruption to stay registered and qualified to perform public work pursuant to Section 1725.5 for the duration of the term of this Agreement. This provision does not apply to construction, alteration, demolition, installation or repair work of $25,000 or less or to maintenance work of $15,000 or less.

9. SERVICE PROVIDER acknowledges that 8 hours labor constitutes a legal day's work. SERVICE PROVIDER shall comply with and be bound by Labor Code Section 1810.

10. SERVICE PROVIDER shall comply with and be bound by Labor Code Section 1813 concerning penalties for workers who work excess hours. SERVICE PROVIDER shall, as a penalty to CITY, forfeit $25 for each worker employed in the performance of this Agreement by SERVICE PROVIDER or by any subcontractor for each calendar day during which such worker is required or permitted to work more than 8 hours in any calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code Section 1815, work performed by SERVICE PROVIDER's employees in excess of 8 hours per day and 40 hours per week shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1 ½ times the basic rate of pay.

11. The Project listed in the Agreement is subject to compliance monitoring and enforcement by the DIR.

12. SERVICE PROVIDER shall be responsible for each and every one of its subcontractors' compliance with Chapter 1, the DIR's rules and regulations, and Labor Code Sections 1860 and 3700. SERVICE PROVIDER shall include in the written contract between it and each subcontractor a copy of, and a requirement that each subcontractor shall comply with, those statutory provisions. SERVICE PROVIDER shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractors' compliance, including without limitation, conducting a periodic review of the certified payroll records of each subcontractor, and upon becoming aware of the failure of the subcontractor to pay its workers the specified prevailing rate of wages, SERVICE PROVIDER shall diligently take corrective action to halt or rectify any failure.

13. To the maximum extent, SERVICE PROVIDER shall hold harmless, defend (with counsel approved by the City Attorney) and indemnify CITY, its legislative bodies, and its officials, officers, employees and agents from any demand or claim for damages, compensation, fines, penalties or other amounts arising out of or incidental to any acts or omissions listed above by any person or entity (including Service Provider, its subcontractors, and each of their officials, officers, employees and agents) in connection with any work undertaken or in connection with the Agreement, including without limitation the payment of all attorneys' fees and other related costs. All duties of SERVICE PROVIDER under this Section shall survive Agreement termination.

CITY COUNCIL AGENDA REPORT

INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. L.6

DATE: September 5, 2023

TO: City Council, Community Development Commission Successor Agency, Financing Authority, and Housing Authority Board

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

SUBJECT: 2024 Meeting Schedule for Legislative Bodies.

RECOMMENDATION

That City Council, Community Development Commission Successor Agency, Financing Authority, and Housing Authority adopt the proposed meeting dates for the calendar year 2024.

(This item did not originate in Committee.)

BACKGROUND

On November 13, 2018, the City Council adopted Ordinance No. 2949 amending Chapter 2, Article 1, Section 2-1 and adding Section 2-1.1 to the City Code regarding the regular City Council meeting schedule and establishing City Council committees, to take effect January 1, 2019. Per Oxnard City Code section 2-1, the City Council will meet the first and third Tuesdays of the month. Per Oxnard City Code section 2-1.1, City Committees will meet the second and fourth Tuesdays of the month. The Council has the ability to schedule additional meetings or cancel meetings as necessary.

Staff proposes the following meeting dates for the City Council, Community Development Commission Successor Agency, Financing Authority, and Housing Authority for calendar year 2024:

January 2 and 16
February 6 and 20
March 4 and 19
April 2, 16 and 30
May 7 and 21
June 4, 18 and 27
July 2, 16 and 30
September 3 and 17
October 1, 15 and 29
November 19
December 3 and 17

Staff proposes the following meeting dates for the City Council Committees for calendar year 2023:

January 9 and 23
February 13 and 27
March 12 and 26
April 9 and 23
May 14 and 28
June 11 and 25

July 9 and 23
September 10 and 24
October 8 and 22
November 12 and 26
December 10

The Tuesdays on which the Council would not meet, along with the reasons, are listed below:

March 5 - Presidential Primary Election
August 6, 13, 20, and 27 - Council recess the month of August.
November 5 - Presidential election.
December 24 and 31 - Half-Day holiday.

This schedule results in a total of 25 City Council meetings and 21 City Council Committee meetings for the 2024 calendar year. The Council has the ability to schedule additional special meetings as needed.

Per Oxnard City Code section 2-1.2, Council meetings open sessions shall commence no earlier than 5:00 p.m.. As set forth in the Council Procedures Manual, public hearings are scheduled to commence at 6:15 p.m., unless otherwise approved by the Council. Closed sessions generally start as early as 4:30 p.m., as needed.

Residents are invited to participate in the Council meetings in person. These meetings are also televised on Spectrum, Channel 10 and Frontier Communications, Channel 35. Finally, residents have access to these public meetings via the City's webpage or YouTube, both in real time and archived following the meetings at www.oxnard.org/city-meetings.

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: Luly Lopez, Executive Assistant I

ATTACHMENTS

1. Attachment No. 1 - 2024 City Council Calendar

2024 Oxnard City Council Meetings

City Council (1st & 3rd Tues)

Committee (2nd & 4th Tues)

Closed Friday

Holiday

Half-Day Holiday

January

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

February

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29		

March

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

April

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

May

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

June

S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

July

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

August

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

September

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

October

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
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CITY OF OXNARD CALIFORNIA

CITY COUNCIL AGENDA REPORT

INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. L.7

DATE: September 5, 2023

TO: City Council

FROM: Jason Benites, Police Chief, (805) 385-7624, jason.benites@oxnardpd.org

SUBJECT: Audit Services with Eadie & Payne, LLP for the 2020-2023 California Violence Intervention and Prevention (CalVIP) Grant

RECOMMENDATION

That the City Council approve an agreement in the amount not to exceed $25,000 with Eadie and Payne, LLP to perform an audit of the 2020-2023 California Violence Intervention and Prevention (CalVIP) grant.

(This item did not originate in Committee)

BACKGROUND

In January 2021, the City Council approved the grant application of $500,000 from the Board of State and Community Corrections (BSCC) for the 2020-2023 California Violence Intervention and Prevention (CalVIP) project. The CalVIP grant provides funding for cities and community-based organizations with the goal of improving public health and safety by supporting effective violence reduction initiatives in communities that are disproportionately impacted by violence, homicides, shootings, and aggravated assaults. The Police Department used the grant funds in a collaborative partnership between Drag Racing Against Gangs and Graffiti (DRAGG) and other community-based organizations. It funded staffing within the Office of Youth Safety for street and community outreach, violence intervention, referrals to services, case management, life guidance, and mentoring.

Upon acceptance of the grant award, one of the grant requirements is to provide the Board of State and Community Corrections (BSCC) with a financial audit of the program. It must be completed no later than the end of the contract term of December 31, 2023. The financial audit shall be performed by a Certified Public Accountant or a participating county or city auditor that is organizationally independent from the participating county's or city's project financial management functions. Expenses for the financial audit may be reimbursed for the actual costs up to $25,000.

STRATEGIC PRIORITIES

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

FINANCIAL IMPACT

There is no financial impact on the General Fund. The Agreement (32400144) has a contract value to not exceed $25,000. The amount is appropriated in 2102131-53210 #G2108 (Services - Audit).

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Delia Campbell, Police Finance Manager

ATTACHMENTS

1. Eadie & Payne Audit Contract (1)

Agreement No. 32400144

CONSULTANT/PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF OXNARD AND Eadie and Payne, LLP (EadiePayne)

By This Consultant/Professional Services Agreement ("Agreement"), the CITY of Oxnard ("CITY") agrees to engage the services of Eadie and Payne, LLP (EadiePayne) ("CONSULTANT"), and CONSULTANT agrees to perform the services for CITY as herein described, for the compensation, during the term, and otherwise subject to the covenants and conditions herein set forth. CITY and CONSULTANT may be individually referred to as "Party" or collectively as the "Parties."

1. **SUMMARY DESCRIPTION OF SERVICES.** 2020-2023 California Violence and Intervention (CalVIP) Grant Financial Audit.

2. **PARTIES.**

CITY of Oxnard ("CITY"), a general law and municipal corporation of the State of California, located at 300 West Third Street, Oxnard California 93030

Eadie and Payne, (EadiePayne) ("CONSULTANT"), a LLP of the State of California, located at 3880 Lemon Street, Suite 300 Riverside, CA 92501

3. **TERM OF AGREEMENT:** From: September 6, 2023 to: December 31, 2023

3.1 Time is of the essence in this Agreement.

3.2 All services required of CONSULTANT under this Agreement shall be completed on or before the end of the term of the Agreement.

4. **AGREEMENT AMOUNT NOT TO EXCEED:** $ 25,000.00.

5. **AGREEMENT EXHIBITS.**

The following documents memorialized below are the only exhibits to this Agreement and are incorporated by reference as though fully set forth herein. In the event of a conflict between the Exhibits and this Agreement, the Agreement controls.

Exhibit A: Scope of Services
Exhibit B: Schedule of Compensation
Exhibit C: Insurance Requirements: City Insurance Exhibit INS-__
Exhibit D: Living Wage Policy

6. DESIGNATED REPRESENTATIVES.

The Designated Representatives listed below shall be authorized to act on behalf of the named Party, be responsible for negotiations and contractual matters, and coordinate with each other to perform the services under this Agreement. Additionally, CONSULTANT's services shall be performed or immediately supervised by the CONSULTANT's Representative:

CITY Designated Representative:	CONSULTANT Designated Representative:
Name: Christopher Williams	Name: Brandon Ferrell
Title: Assistant Police Chief	Title: Partner
Phone: (805) 200-5680	Phone: (951) 241-7814
Email: Christopher.williams@oxnardpd.org	Email: bferrell@eadiepaynellp.com
Mailing Address (if differs from above):	Mailing Address (if differs from above):

7. CONTRACTUAL PREREQUISITES.

7.1 This Agreement must first be executed by the CONSULTANT, after which the Agreement shall be approved as to form by the City Attorney, then executed by the Mayor, or an authorized person on behalf of the CITY, and if executed by the Mayor shall also be executed by the City Clerk.

7.2 CONSULTANT is advised that any recommendation for AGREEMENT award is not binding on CITY until the AGREEMENT is fully executed and approved by CITY.

7.3 A request for modification of the terms, prior to execution of the Agreement, must be made in writing and presented to the Designated Representative of the CITY prior to the time this Agreement is executed.

7.4 All proof of business license, insurance, and W-9 forms is required prior to execution of this Agreement.

7.5 CONSULTANT shall not perform any work under this Agreement until a proof of insurance has been provided to the City as required under Section 24 of this Agreement.

8. CONSULTANT'S SERVICES.

8.1 CONSULTANT shall perform the tasks, obligations, and services set forth in the "Scope of Services," attached to and incorporated into this Agreement as "Exhibit A." Once this Agreement is executed, the Scope of Services may only be modified by written Amendment pursuant to Section 12 of this Agreement.

8.2 The Services shall be coordinated with the designated City Project Manager set forth in Exhibit A subject to the direction of the City Manager or Department

Director. CONSULTANT hereby designates its Project Manager as set forth in "Exhibit A" as the person responsible for the Services who shall coordinate with City's Project Manager in executing the scope of services under this Agreement.

9. COMPENSATION.

CITY shall pay CONSULTANT for the services performed pursuant to the terms of this Agreement in the time and manner set forth in the "Schedule of Compensation," attached to and incorporated into this Agreement as "Exhibit B." CITY shall pay SERVICE PROVIDER an amount not to exceed the amount is listed in Section 4 of this Agreement. Once this Agreement is executed, the Schedule of Compensation may only be modified by written Amendment pursuant to Section 12 of this Agreement, and may be subject to approval by the City Council.

10. PAYMENT & INVOICES.

The CITY shall pay all undisputed portions of any applicable invoice within forty-five (45) days after receipt of an invoice. In the event the CITY disputes one or more items in an invoice, the CITY shall, within forty-five (45) days after receipt of such invoice, notify the CONSULTANT of the item(s) being disputed and the reason(s) therefore. The CITY may withhold payment for such disputed items until resolution of the dispute.

10.1 Payment Request. CONSULTANT shall submit a payment request to CITY by the end of each calendar month listing the Services provided, costs of those Services, and total amount due for the month. Invoices may be emailed to: **invoices@oxnard.org**.

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

10.3 CONSULTANT's acceptance of final payment made pursuant to this Agreement shall constitute a release of CITY from all claims and liabilities for compensation to CONSULTANT for anything completed, finished or relating to the Services. CITY's payment shall not constitute nor be deemed a release of the responsibility and liability of CONSULTANT for the accuracy and competency of the information provided and/or the Services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by CITY for any defect or error in the Services performed by CONSULTANT and its employees, agents and subcontracted consultants.

10.4 CONSULTANT shall provide CITY with a completed Request for Taxpayer Identification Number and Certification, as issued by the Internal Revenue Service. If any sales tax is due for the Services performed by CONSULTANT or materials or products provided to CITY by CONSULTANT, CONSULTANT shall pay the sales tax. CITY shall not reimburse CONSULTANT for sales taxes paid by CONSULTANT.

11. OPTION TO EXTEND AGREEMENT.

When in the CITY's best interest, this Agreement may only be extended, if the City in its discretion exercises the option to extend pursuant to Section 3.2 and 3.3 of the Agreement. The initial term, plus any option to extend, shall not exceed a total of five (5) years. **If no option to extend the Agreement appears in sections 3.2, then this Agreement shall not be extended.**

12. MODIFICATION OF AGREEMENT.

This Agreement may be amended, modified, or otherwise altered, or its provisions waived, only upon mutual consent of the Parties by written amendment, and as authorized by the Oxnard City Code, Sections 4-59 and 4-60.

13. TERMINATION OF AGREEMENT.

CITY may terminate this Agreement at any time, with or without cause and without penalty, upon fifteen (15) calendar days' prior written notice pursuant to Section 31 of this Agreement. Such termination shall be effective on the date specified in the notice, or if no date is specified, then fifteen (15) calendar days from the date of the notice. CITY shall be liable to CONSULTANT only for work done by CONSULTANT up to and including the date of termination of this Agreement unless the termination is for cause, in which event CONSULTANT need be compensated only to the extent required by law. CONSULTANT may terminate this Agreement at any time during the term of the Agreement by giving the CITY sixty (60) calendar days' prior written notice.

14. INDEPENDENT CONTRACTOR

CONSULTANT is and shall at all times remain, as to CITY, a wholly independent contractor. Neither CITY nor any of its employees or agents shall have control over the conduct of CONSULTANT or any of its employees, except as stated in this Agreement. CONSULTANT has and shall retain the right to exercise full control over the employment, direction, means of performance, location, compensation and discharge of all persons assisting CONSULTANT. This Agreement shall not be interpreted to prevent or preclude CONSULTANT from rendering any services for CONSULTANT's own account or to any other person or entity as CONSULTANT in its sole discretion shall determine; provided, however, that performing such services shall not materially interfere with the Services the CONSULTANT shall perform for the CITY. The CITY retains the right to provide general

instructions to and observe the CONSULTANT in the performance of all services done on behalf of the CITY.

CONSULTANT and its employees and agents have no authority, express or implied, to act on behalf of CITY in any capacity, to incur any debt, obligation or liability on behalf of CITY, bind CITY in any manner, or otherwise act on behalf of CITY as an agent. CONSULTANT and its employees are not employees of CITY. CONSULTANT and its employees are not entitled to receive from CITY any of the benefits or rights afforded employees of CITY, including but not limited to reserve leave, sick leave, vacation leave, holiday leave, compensatory leave, Public Employees Retirement System benefits, and health, life, dental, long-term disability and workers' compensation insurance benefits. CONSULTANT shall not, at any time or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of CITY.

15. LAWFUL PERFORMANCE.

CONSULTANT shall abide by all Federal, State, and Local Laws and Regulations as may be related to the performance of duties under this Agreement. CONSULTANT, at its sole expense, shall obtain and maintain during the term of this Agreement, all appropriate permits, licenses, and certificates that may be required in connection with the performance of services under this Agreement.

16. SAFETY REQUIREMENTS.

CONSULTANT shall not perform any services for the CITY when the CONSULTANT is impaired by alcohol or a controlled substance. When there is reasonable cause to believe that any person has violated this provision, that person shall be immediately removed from the premises and be subject to any applicable civil and/or criminal penalties under the CITY's Code and/or under state law. All work performed under this Agreement shall be performed in such a manner as to provide safety to the public. The CITY reserves the right to issue restraining or cease and desist orders to CONSULTANT when unsafe or harmful acts are observed or reported relative to the performance of the work under this Agreement. The acceptance of CONSULTANT's work by CITY shall not operate as a release of the CONSULTANT from such standard of care and workmanship.

17. OWNERSHIP OF CONSULTANT'S WORK PRODUCT, CONFIDENTIALITY & DISCLOSURE.

CITY shall be the owner of any and all technical documents and records, including, computations, plans, correspondence, and/or other pertinent data and information, both hard copy and electronic, gathered or prepared by CONSULTANT in performance of this Agreement and shall be entitled to immediate possession of the same upon completion of the work under this Agreement, or at any earlier or later time when the same may be requested by CITY.

17.1. Records and Inspections. The CONSULTANT shall maintain full and accurate records, with respect to all services and matters covered under this Agreement. The CITY shall have free access at all reasonable times to such records, both hard copy and electronic, and the right to examine and audit the same and to make transcripts therefrom, and to inspect all program data, documents, proceedings, and activities.

17.2. Deliverables. CONSULTANT shall deliver to the CITY the studies, plans, specifications, or other documents as are identified in the Scope of Services; and CONSULTANT shall, upon completion of all work or termination of this Agreement, submit to the CITY all information developed in the course of the CONSULTANT's services. CONSULTANT shall, in such time and in such form as the CITY may require, furnish reports concerning the status of services required under this Agreement. CONSULTANT shall, upon request by CITY and upon completion or termination of this Agreement, deliver to the CITY all material furnished to CONSULTANT by the CITY.

17.3. Ownership – Generally. All inventions, discoveries, enhancements, changes, or improvements of computer programs developed pursuant to this Agreement shall be the property of the CITY, and all patents or copyrights shall be assigned to the CITY, unless otherwise agreed. CONSULTANT agrees that CITY may make modifications to computer software furnished by CONSULTANT without infringing CONSULTANT's copyright or any license granted to CITY, unless otherwise agreed.

17.4. Ownership of Documents. Every report, draft, work product, map, record, and other document reproduced, prepared, or caused to be prepared by the CONSULTANT pursuant to or in connection with this Agreement shall be the exclusive property of the CITY.

17.5. Confidentiality. Information that is exempt from disclosure to the public is confidential. This includes information relating to the past, present, or future affairs of the CITY or information belonging to a third party whose information is in the CITY's possession or control under obligations of confidentiality. CONSULTANT may be granted access to information that is exempt from disclosure to the public (Government Code Section 6254 and 6254.16) and may contain "trade secrets" (see Government Code Section 6254.7(d)) when it is necessary for CONSULTANT to perform its obligations pursuant to this Agreement. If CONSULTANT is granted such access to confidential information, CONSULTANT shall not be considered to be a member of the public as that term is used in Government Code Section 6254.5.

17.6. Disclosure of Information. CONSULTANT shall not disclose, publish, or authorize others to disclose or publish, design data, drawings, specifications, reports, or other information pertaining to the projects assigned to CONSULTANT by the CITY or other information to which the CONSULTANT has had access

during the term of this Agreement without the prior written approval of the CITY's Designated Representative during the term of this Agreement and for a period of two (2) years after the termination of this Agreement.

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

18. ASSIGNMENT.

This Agreement is for the professional services of CONSULTANT. Any attempt by CONSULTANT to assign the benefits or burdens of this Agreement without the prior written approval of CITY shall be prohibited and shall be null and void. CONSULTANT's services pursuant to this Agreement shall be provided by the CONSULTANT's Designated Representative or directly under his/her supervision, and CONSULTANT shall not assign another to supervise the CONSULTANT's performance of this Agreement without the prior written approval of CITY, by and through the CITY's Designated Representative.

19. NOTICE OF BREACH AND OPPORTUNITY TO CURE.

Neither Party will be in breach of this Agreement where the breach is capable of being cured, or until written notice of the breach is received from the non-breaching Party. The Party charged with breach will have fifteen (15) calendar days from the date of receiving such notice in which to cure the breach or otherwise respond. If the circumstances leading to the charge that the Agreement was breached have not been cured or explained to the satisfaction of the other Party within fifteen (15) days from the date on which the breaching Party received notice of breach, the non-breaching Party may terminate this Agreement. Notice shall be given in the manner set forth in section 22.

20. NOTICE.

All notices given or required to be given pursuant to this Agreement shall be in writing and may be given by personal delivery or by first-class mail. Notice sent by mail shall be addressed to each Party's Designated Representative as set forth above in Section 6. When addressed in accordance with this Section, such notice shall be deemed given upon deposit in the United States mail, postage prepaid. In all other instances, notices shall be deemed given at the time of actual delivery. Changes may be made in the names or addresses of persons to whom notices are to be given by giving notice in the manner prescribed in this Section.

21. COVENANTS AND CONDITIONS.

Each term and each provision of this Agreement to be performed by CONSULTANT shall be construed to be both a covenant and a condition.

22. WAIVER.

CITY's review or acceptance of, or payment for, work product prepared by CONSULTANT under this Agreement will not be construed to operate as a waiver of any rights CITY may have under this Agreement or of any cause of action arising from CONSULTANT's performance. A waiver by CITY of any breach of any term, covenant, or condition contained in this Agreement will not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained in this Agreement, whether of the same or different character.

23. INDEMNIFICATION, HOLD HARMLESS & DEFENSE.

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

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

23.3 The provisions of this Subsection 23.3 apply only in the event that CONSULTANT is a design professional within the meaning of California Civil Code section 2782.8 ("Design Professional"). The term Design Professional, as defined in said section, is limited to licensed architects, licensed landscape architects, registered professional engineers, professional land surveyors, and the business entities that offer such services in accordance with the applicable provisions of the California Business and Professions Code.

23.3.1 Notwithstanding the provisions of Subsections 23.1 and 23.2 above, to the extent that the services to be provided under this Agreement are those of a Design Professional, CONSULTANT's duty to indemnify, hold harmless, and defend the Indemnitees shall be limited to the extent that any claims arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONSULTANT, its officers, agents, employees or subconsultants in the performance of the services described in this Agreement.

23.3.2 In no event shall the costs of defense charged to CONSULTANT exceed the CONSULTANT's proportionate percentage of fault, except as otherwise set forth in said Civil Code section 2782.8, the provisions of which are incorporated into this Agreement by this reference. Nothing in this Subsection 23.3 shall be construed to require CONSULTANT to provide indemnification for claims caused by the active negligence or willful misconduct of the Indemnitees.

23.4 The review, acceptance or approval of CONSULTANT's work or work product by any of the Indemnitees shall not affect, relieve or reduce CONSULTANT's indemnification or defense obligations. CONSULTANT waives any right of contribution against CITY or any of CITY's officers, employees, agents, or volunteers arising out of such failure to inspect, review, monitor, or supervise the work performed by CONSULTANT pursuant to this Agreement. The provisions of this Section shall not be restricted by and do not affect the provisions of this Agreement relating to Section 24. The CONSULTANT's obligations under this Section of the Agreement shall survive the termination of the Agreement.

23.5 CONSULTANT agrees to pay all required taxes on amounts paid to CONSULTANT under this Agreement, and to indemnify and hold CITY harmless from any and all taxes, assessments, penalties, and interest asserted against CITY by reason of the independent contractor relationship created by this Agreement. CONSULTANT shall be solely responsible for, and shall save CITY harmless from, all matters relating to the payment of CONSULTANT's subcontractors, material suppliers, directors, officers, employees, agents and representatives, including compliance with social security requirements, federal and State income tax withholding, and all other regulations governing employer-employee relations, as applicable. CITY shall have the right to offset against the amount of any compensation due to CONSULTANT under this Agreement any amount due to CITY from CONSULTANT as a result of its failure to promptly pay to CITY any reimbursement or indemnification arising under this Section.

24. INSURANCE.

CONSULTANT shall obtain and maintain during the performance of any services under this Agreement the insurance coverages listed within "Exhibit C", which is attached hereto and incorporated herein by this reference, unless the Risk Manager waives, in writing, the requirement that CONSULTANT obtain and maintain such insurance coverages. Such insurance must be issued by a company satisfactory to the Risk Manager. CONSULTANT shall, before performance of any services pursuant to this Agreement, file with the Risk Manager evidence of insurance coverage as specified in "Exhibit C". Maintenance of insurance coverages by CONSULTANT is a material element of this Agreement. CONSULTANT'S failure to maintain or renew insurance coverages or to provide renewal evidence shall be considered a material breach of this Agreement.

25. LIVING WAGE REQUIREMENTS.

During the term of this Agreement, CONSULTANT understands and agrees that if Living Wages are applicable, subject to the 2002 Oxnard City Council Living Wage Policy, attached as "Exhibit D" to this Agreement, CONSULTANT will pay and/or provide the wages and/or benefits required therein to all of its employees engaged in whole or in part in performing the services provided for by this Agreement. The duty to pay the correct wage is the responsibility of the CONSULTANT.

26. PREVAILING WAGE REQUIREMENTS.

26.1. Application. The payment of State prevailing wages as designated for Ventura County shall apply to public works projects. However, this section shall not apply to work performed on a public works project of twenty-five thousand dollars ($25,000) or less when the project is for construction, alteration, demolition, installation, or repair work; or to work performed on a public works project of fifteen thousand dollars ($15,000) or less when the project is for maintenance work. Prevailing wages are required to be paid to all workers, including subcontracted employees.

26.2. Compliance with California Department of Industrial Relations (DIR). To determine if this Agreement is subject to compliance monitoring and enforcement, go to:
https://www.dir.ca.gov/Public-Works/PublicWorksSB854FAQ.html

26.3. Contract Splitting. It is unlawful to split, or separate into small portions, work orders, projects, purchases, or public works projects for the purpose of evading these prevailing wage requirements.

26.4. Use of Prevailing Wages vs. Living Wages. In the event that there is a difference between the amount of wages to be paid under the CITY of Oxnard's local Living Wage requirements and the requirements of this provision, the wage

rate that is the higher of the two shall be applicable to this Agreement. The duty to pay the correct wage is the responsibility of the CONSULTANT.

27. IRAN CONTRACTING ACT – NOT APPLICABLE

28. CONFLICT OF INTEREST

CONSULTANT covenants that it does not have any interest, nor shall it acquire any interest, directly or indirectly, which would conflict in any manner with the performance of CONSULTANT's services under this Agreement. CONSULTANT further covenants that in the performance of services under this Agreement, no officer, employee or agent of CONSULTANT having such interest shall be employed by it. In the event the CITY determines that CONSULTANT must disclose its financial interests by completing and filing a Fair Political Practices Commission Form 700, Statement of Economic Interests, CONSULTANT shall file such Form 700 with the CITY Clerk's Office pursuant to the written instructions provided by the CITY Clerk. Acquisition or maintenance of a conflicting interest by CONSULTANT may result in termination of this Agreement by the CITY.

29. [RESERVED] -

30. DISPUTES.

Except as otherwise provided in these provisions, any dispute concerning a question of fact arising under this Agreement, shall be decided by the CITY's Designated Representative, who shall reduce this decision to writing and mail a copy to the CONSULTANT. The decision of the CITY's Designated Representative shall be final and conclusive unless CONSULTANT requests mediation within ten (10) calendar days. Pending final decision of a dispute, the CONSULTANT shall proceed diligently with the performance of the Agreement and in accordance with the decision of the CITY's Designated Representative.

31. DISPUTE RESOLUTION.

Should an unresolved dispute arise out of this Agreement, any Party may request that it be submitted to mediation. The Parties shall meet in mediation within a reasonable time not to exceed forty five (45) days of a request. The mediator shall be agreed to by the mediating Parties. In the absence of an agreement on a mediator, the Parties shall each submit one name from mediators listed by the American Arbitration Association, the California State Board of Mediation and Conciliation, or other agreed-upon service. The mediator shall be selected by a "blindfold" process. The cost of mediation shall be borne equally by both Parties. Neither Party shall be deemed the prevailing Party. No Party shall be permitted to file a legal action without first meeting in mediation and making a good faith attempt to reach a mediated settlement. The mediation process, once commenced by a meeting with the mediator, shall last until

agreement is reached by the Parties but not more than sixty (60) calendar days, unless the maximum time is extended in writing by both Parties.

32. AUDIT.

CITY shall have the option of inspecting, auditing and/or reproducing all records and other written materials: used by CONSULTANT in preparing its billings to CITY as a condition precedent to any payment to CONSULTANT; or for other purposes relating to the Agreement. CONSULTANT will promptly furnish all documents requested by CITY. Additionally, if this Agreement is in excess of $10,000, the State Auditor may examine and audit CONSULTANT for a period of 3 years after final payment under the Agreement. Regardless of whether a State audit is permitted, CONSULTANT shall maintain and preserve all such records for a period of at least 3 years after final payment under the Agreement or until an audit has been completed and accepted by CITY, whichever occurs later. CONSULTANT shall maintain all such records in CITY or to promptly reimburse CITY for all reasonable costs incurred in conducting the audit at a location other than in CITY, including but not limited to expenses for personnel, salaries, private auditor, travel, lodging, meals and overhead. CONSULTANT shall include a copy of this Section in all contracts with its subcontractors, and CONSULTANT shall be responsible for immediately obtaining those records or other written material from its subcontractors upon a request by the State Auditor and/or CITY.

33. ADVERTISING AND PUBLICITY

CONSULTANT shall not use the name of or refer to CITY directly or indirectly in any advertisement, news release, or professional or trade publication without prior written approval from the CITY Manager This Section shall survive the termination of this Agreement.

34. NONDISCRIMINATORY EMPLOYMENT.

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

35. FORCE MAJEURE.

Neither the CONSULTANT nor the CITY shall be responsible for any delay caused by any contingency beyond their control, including, but not limited to, war or insurrection,

walkouts by the Party's own employees, fires, natural calamities, riots, or demands or requirements of governmental agencies other than the CITY.

36. GOVERNING LAW.

The terms of this Agreement shall be interpreted according to the laws of the State of California. Should litigation occur, venue shall be in the Superior Court of California, County of Ventura.

37. SEVERABILITY.

If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, then such portion will be deemed modified to the extent necessary in the opinion of the court to render such portion enforceable and, as so modified, such portion and the balance of this Agreement will continue in full force and effect and be enforceable.

38. INTEGRATED AGREEMENT.

This Agreement and the attached exhibits referenced herein to this Agreement represent the entire understanding between the Parties. No verbal agreement or implied covenant shall be held to vary the provisions of this Agreement. This Agreement shall bind and inure to the benefit of the Parties to this Agreement and any subsequent successors and assigns.

39. NO THIRD-PARTY BENEFICIARY.

This Agreement shall not be construed to be an agreement for the benefit of any third-party or parties, and no third party or parties shall have any claim or right of action under this Agreement.

40. AUTHORITY TO EXECUTE.

Each Party hereto expressly warrants and represents that through its Designated Representative it has the authority to execute this Agreement on behalf of its corporation, partnership, business entity, or governmental entity, and warrants and represents that the Designated Representative has the authority to bind each Party to the performance of its obligations hereunder.

41. EXECUTION – COUNTERPARTS.

This Agreement may be executed in any number of counterparts and each such duplicate counterpart shall constitute an original, but they shall not be effective nor enforceable unless and until it is executed with the handwritten signature of an authorized representative of each of the relevant Parties. No counterpart shall be deemed to be an original or presumed delivered unless and until the counterpart executed by the other

Party to this Agreement is in the physical possession of the Party seeking enforcement thereof.

42. INCONSISTENT OR CONFLICTING TERMS.

In the event of any contradictions or inconsistencies between any attached documents or exhibits incorporated by reference herein and the provisions of the Agreement itself, the terms of the Agreement shall control. Any exhibit that is attached and incorporated by reference shall be limited to the purposes for which it is attached, as specified in this Agreement. Any contractual terms or conditions contained in such exhibit imposing additional obligations on the CITY are not binding upon the CITY's Designated Representative unless specifically agreed to in writing, and initiated by CITY's Designated Representative, as to each additional contractual term or condition.

43. CAPTIONS AND HEADINGS.

The captions and headings contained in this Agreement are provided for identification purposes only and shall not be interpreted to limit or define the content, scope, or intent of the provisions described under the respective caption or heading.

44. ACKNOWLEDGEMENT.

By signing below, CONSULTANT acknowledges that it has reviewed the CITY's CONSULTANT/Professional Services Agreement terms and conditions and insurance requirements and that CONSULTANT hereby agrees to full compliance.

[Signatures on next page]

In witness whereof, the Parties have entered into this Agreement effective on the date as written in section 3 and upon signature of all Parties.

CITY OF OXNARD

☐John C. Zaragoza, Mayor[1] Date
☐Jennifer Yates, Purchasing Manager[2]

ATTEST

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

APPROVED AS TO FORM.

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

[CONSULTANT]

ECCasareno 8/3/23
Eden Casareno, Partner Date

Brandon Ferrell 8/4/23
Brandon Ferrell, Partner[3] Date

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

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

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

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

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

EXHIBIT A

CONSULTANT/PROFESSIONAL SERVICE AGREEMENT
(CITY of Oxnard and Eadie and Payne, LLP (EadiePayne))

SCOPE OF SERVICES

Project Manager for the Agreement: Delia Campbell/805-385-7612/delia.campbell@oxnardpd.org

Required:

The financial audit shall be performed by a Certified Public Accountant or a participating county or city auditor that is organizationally independent from the participating county's or city's project financial management function.

General Specifications

The CONSULTANT conduct an audit of the California Violence and Intervention (CalVIP) Grant financial statements for the period October 1, 2020 through June 30, 2023, as required by the grant agreement between the Board of State and Community Corrections and the City of Oxnard Police Department dated September 29, 2020.

Invoicing/Billing

Invoicing for services rendered is required for proper payment. The work must be identified on the invoice. Invoices to be emailed to accounts.payable@oxnardpd.org.

EXHIBIT B

CONSULTANT/PROFESSIONAL SERVICE AGREEMENT
(CITY of Oxnard and Eadie and Payne, LLP (EadiePayne))

SCHEDULE OF COMPENSATION

Proposed Fee

The fees are based on the amount of time required at various levels of responsibility, plus actual out-of-pocket expenses. Invoices will be rendered every month and are payable upon presentation. The maximum fee for the audit and other services is for a not to exceed amount of $25,000.00.

EXHIBIT C

CONSULTANT/PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Eadie and Payne, LLP (EadiePayne))

INSURANCE REQUIREMENTS

Prior to contract approval, CONSULTANT/SERVICE PROVIDER/SELLER/BIDDER (hereafter referred to as "CONSULTANT") must procure, agree to maintain and supply evidence of insurance at the levels listed and in accordance with the other provisions listed in this document.

EADIPAY-01

ECARRILLO

DATE (MM/DD/YYYY) 6/21/2023

CERTIFICATE OF LIABILITY INSURANCE

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 License # 0757776
HUB International Insurance Services Inc.
PO Box 5345
Riverside, CA 92517

CONTACT NAME: Chris Sims
PHONE (A/C, No, Ext): (951) 779-8542 FAX (A/C, No):
E-MAIL ADDRESS: chris.sims@hubinternational.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Sentinel Insurance Company, Ltd.	11000
INSURER B : Harford Mutual Insurance Companies	14141
INSURER C : Lloyd's of London	15792
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
Eadie and Payne, LLP
3880 Lemon St., Ste. 300
Riverside, CA 92501

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY PRO-JECT LOC OTHER:	X	X	72SBAIB6333	10/1/2022	10/1/2023	EACH OCCURRENCE $ DAMAGE TO RENTED PREMISES (Ea occurrence) $ MED EXP (Any one person) $ PERSONAL & ADV INJURY $ GENERAL AGGREGATE $ PRODUCTS - COMP/OP AGG $ $	2,000,000 1,000,000 10,000 2,000,000 4,000,000 4,000,000
A	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY / SCHEDULED AUTOS X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY		X	72SBAIB6333	10/1/2022	10/1/2023	COMBINED SINGLE LIMIT (Ea accident) $ BODILY INJURY (Per person) $ BODILY INJURY (Per accident) $ PROPERTY DAMAGE (Per accident) $ $	2,000,000
A	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED X RETENTION $ 10,000			72SBAIB6333	10/1/2022	10/1/2023	EACH OCCURRENCE $ AGGREGATE $ $	4,000,000 4,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N N N/A If yes, describe under DESCRIPTION OF OPERATIONS below		X	72WECAX7UEX	7/1/2023	7/1/2024	X PER STATUTE OTH-ER E.L. EACH ACCIDENT $ E.L. DISEASE - EA EMPLOYEE $ E.L. DISEASE - POLICY LIMIT $	1,000,000 1,000,000 1,000,000
C	Cyber Liability			ESL0239497478	8/25/2022	8/25/2023	Aggregate/Each Claim	1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
RE: Reference Number 19685.
City of Oxnard, its City Council, officers, employees, agents and volunteers are Additional Insured with regard to General Liability when required by written contract per the attached endorsement form SS0008 04/05, Primary & Non-Contributory wording and Waiver of Subrogation included. Waiver of Subrogation with regard to Workers Compensation applies when required by written contract per the attached endorsement form WC040306.

CERTIFICATE HOLDER

City of Oxnard
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

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ACORD 25 (2016/03)

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QUICK REFERENCE
BUSINESS LIABILITY COVERAGE FORM
READ YOUR POLICY CAREFULLY

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BUSINESS LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the stock insurance company member of The Hartford providing this insurance.

The word "insured" means any person or organization qualifying as such under Section **C.** - Who Is An Insured

Other words and phrases that appear in quotation marks have special meaning. Refer to Section **G.** - Liability And Medical Expenses Definitions.

A. COVERAGES

1. BUSINESS LIABILITY COVERAGE (BODILY INJURY, PROPERTY DAMAGE, PERSONAL AND ADVERTISING INJURY)

Insuring Agreement

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury", "property damage" or "personal and advertising injury" to which this insurance does not apply.

We may, at our discretion, investigate any "occurrence" or offense and settle any claim or "suit" that may result. But:

(1) The amount we will pay for damages is limited as described in Section **D.** - Liability And Medical Expenses Limits Of Insurance; and

(2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments, settlements or medical expenses to which this insurance applies.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Coverage Extension - Supplementary Payments.

b. This insurance applies:

(1) To "bodily injury" and "property damage" only if:

(a) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";

(b) The "bodily injury" or "property damage" occurs during the policy period; and

(c) Prior to the policy period, no insured listed under Paragraph **1.** of Section **C.** – Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

(2) To "personal and advertising injury" caused by an offense arising out of your business, but only if the offense was committed in the "coverage territory" during the policy period.

c. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph **1.** of Section C. – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

(1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;

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(2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or

(3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

d. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

e. **Incidental Medical Malpractice**

(1) "Bodily injury" arising out of the rendering of or failure to render professional health care services as a physician, dentist, nurse, emergency medical technician or paramedic shall be deemed to be caused by an "occurrence", but only if:

(a) The physician, dentist, nurse, emergency medical technician or paramedic is employed by you to provide such services; and

(b) You are not engaged in the business or occupation of providing such services.

(2) For the purpose of determining the limits of insurance for incidental medical malpractice, any act or omission together with all related acts or omissions in the furnishing of these services to any one person will be considered one "occurrence".

2. **MEDICAL EXPENSES**

Insuring Agreement

a. We will pay medical expenses as described below for "bodily injury" caused by an accident:

(1) On premises you own or rent;

(2) On ways next to premises you own or rent; or

(3) Because of your operations;

provided that:

(1) The accident takes place in the "coverage territory" and during the policy period;

(2) The expenses are incurred and reported to us within three years of the date of the accident; and

(3) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

(1) First aid administered at the time of an accident;

(2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and

(3) Necessary ambulance, hospital, professional nursing and funeral services.

3. **COVERAGE EXTENSION - SUPPLEMENTARY PAYMENTS**

a. We will pay, with respect to any claim or "suit" we investigate or settle, or any "suit" against an insured we defend:

(1) All expenses we incur.

(2) Up to $1,000 for the cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which Business Liability Coverage for "bodily injury" applies. We do not have to furnish these bonds.

(3) The cost of appeal bonds or bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.

(4) All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to $500 a day because of time off from work.

(5) All costs taxed against the insured in the "suit".

(6) Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.

(7) All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

Any amounts paid under **(1)** through **(7)** above will not reduce the limits of insurance.

b. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:

(1) The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";

(2) This insurance applies to such liability assumed by the insured;

(3) The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";

(4) The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interest of the indemnitee;

(5) The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and

(6) The indemnitee:

(a) Agrees in writing to:

(i) Cooperate with us in the investigation, settlement or defense of the "suit";

(ii) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";

(iii) Notify any other insurer whose coverage is available to the indemnitee; and

(iv) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and

(b) Provides us with written authorization to:

(i) Obtain records and other information related to the "suit"; and

(ii) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments.

Notwithstanding the provisions of Paragraph **1.b.(b)** of Section **B.** – Exclusions, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the Limits of Insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

(1) We have used up the applicable limit of insurance in the payment of judgments or settlements; or

(2) The conditions set forth above, or the terms of the agreement described in Paragraph **(6)** above, are no longer met.

B. EXCLUSIONS

1. Applicable To Business Liability Coverage

This insurance does not apply to:

a. Expected Or Intended Injury

(1) "Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property; or

(2) "Personal and advertising injury" arising out of an offense committed by, at the direction of or with the consent or acquiescence of the insured with the expectation of inflicting "personal and advertising injury".

b. Contractual Liability

(1) "Bodily injury" or "property damage"; or

(2) "Personal and advertising injury"

for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement.

This exclusion does not apply to liability for damages because of:

(a) "Bodily injury", "property damage" or "personal and advertising injury" that the insured would have in the absence of the contract or agreement; or

(b) "Bodily injury" or "property damage" assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purpose of liability assumed in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage" provided:

(i) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract", and

(ii) Such attorneys' fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

c. **Liquor Liability**

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

(1) Causing or contributing to the intoxication of any person;

(2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or

(3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.

d. **Workers' Compensation And Similar Laws**

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

e. **Employer's Liability**

"Bodily injury" to:

(1) An "employee" of the insured arising out of and in the course of:

(a) Employment by the insured; or

(b) Performing duties related to the conduct of the insured's business, or

(2) The spouse, child, parent, brother or sister of that "employee" as a consequence of **(1)** above.

This exclusion applies:

(1) Whether the insured may be liable as an employer or in any other capacity; and

(2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

f. **Pollution**

(1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

(a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to any insured. However, this subparagraph does not apply to:

(i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;

(ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or

(iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";

(b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;

(c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:

(i) Any insured; or

(ii) Any person or organization for whom you may be legally responsible;

(d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:

(i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;

(ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or

(iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire"; or

(e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".

(2) Any loss, cost or expense arising out of any:

(a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or

(b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

(1) A watercraft while ashore on premises you own or rent;

(2) A watercraft you do not own that is:

(a) Less than 51 feet long; and

(b) Not being used to carry persons for a charge;

(3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;

(4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft;

(5) "Bodily injury" or "property damage" arising out of the operation of any of the equipment listed in Paragraph **f.(2)** or **f.(3)** of the definition of "mobile equipment"; or

(6) An aircraft that is not owned by any insured and is hired, chartered or loaned with a paid crew. However, this exception does not apply if the insured has any other insurance for such "bodily injury" or "property damage", whether the other insurance is primary, excess, contingent or on any other basis.

h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

(1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or

(2) The use of "mobile equipment" in, or while in practice or preparation for, a prearranged racing, speed or demolition contest or in any stunting activity.

i. War

"Bodily injury", "property damage" or "personal and advertising injury", however caused, arising, directly or indirectly, out of:

(1) War, including undeclared or civil war;

(2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

(3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

j. Professional Services

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or failure to render any professional service. This includes but is not limited to:

(1) Legal, accounting or advertising services;

(2) Preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications;

(3) Supervisory, inspection, architectural or engineering activities;

(4) Medical, surgical, dental, x-ray or nursing services treatment, advice or instruction;

(5) Any health or therapeutic service treatment, advice or instruction;

(6) Any service, treatment, advice or instruction for the purpose of appearance or skin enhancement, hair removal or replacement or personal grooming;

(7) Optical or hearing aid services including the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products or hearing aid devices;

(8) Optometry or optometric services including but not limited to examination of the eyes and the prescribing, preparation, fitting,demonstration or distribution of ophthalmic lenses and similar products;

(9) Any:

(a) Body piercing (not including ear piercing);

(b) Tattooing, including but not limited to the insertion of pigments into or under the skin; and

(c) Similar services;

(10) Services in the practice of pharmacy; and

(11) Computer consulting, design or programming services, including web site design.

Paragraphs **(4)** and **(5)** of this exclusion do not apply to the Incidental Medical Malpractice coverage afforded under Paragraph **1.e.** in Section **A.** - Coverages.

k. Damage To Property

"Property damage" to:

(1) Property you own, rent or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;

(2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;

(3) Property loaned to you;

(4) Personal property in the care, custody or control of the insured;

(5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or

(6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it

Paragraphs **(1)**, **(3)** and **(4)** of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of 7 or fewer consecutive days. A separate Limit of Insurance applies to Damage To Premises Rented To You as described in Section **D.** - Limits Of Insurance.

Paragraph **(2)** of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs **(3)** and **(4)** of this exclusion do not apply to the use of elevators.

Paragraphs **(3)**, **(4)**, **(5)** and **(6)** of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraphs **(3)** and **(4)** of this exclusion do not apply to "property damage" to borrowed equipment while not being used to perform operations at a job site.

Paragraph **(6)** of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

l. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

m. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

n. Damage To Impaired Property Or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

(1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or

(2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

o. Recall Of Products, Work Or Impaired Property

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

(1) "Your product";

(2) "Your work"; or

(3) "Impaired property";

if such product, work or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

p. Personal And Advertising Injury

"Personal and advertising injury":

(1) Arising out of oral, written or electronic publication of material, if done by or at the direction of the insured with knowledge of its falsity;

(2) Arising out of oral, written or electronic publication of material whose first publication took place before the beginning of the policy period;

(3) Arising out of a criminal act committed by or at the direction of the insured;

(4) Arising out of any breach of contract, except an implied contract to use another's "advertising idea" in your "advertisement";

(5) Arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement";

(6) Arising out of the wrong description of the price of goods, products or services;

(7) Arising out of any violation of any intellectual property rights such as copyright, patent, trademark, trade name, trade secret, service mark or other designation of origin or authenticity.

However, this exclusion does not apply to infringement, in your "advertisement", of

(a) Copyright;

(b) Slogan, unless the slogan is also a trademark, trade name, service mark or other designation of origin or authenticity; or

(c) Title of any literary or artistic work;

(8) Arising out of an offense committed by an insured whose business is:

(a) Advertising, broadcasting, publishing or telecasting;

(b) Designing or determining content of web sites for others; or

(c) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs **a.**, **b.** and **c.** under the definition of "personal and advertising injury" in Section **G.** – Liability And Medical Expenses Definitions.

For the purposes of this exclusion, placing an "advertisement" for or linking to others on your web site, by itself, is not considered the business of advertising, broadcasting, publishing or telecasting;

(9) Arising out of an electronic chat room or bulletin board the insured hosts, owns, or over which the insured exercises control;

(10) Arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatags, or any other similar tactics to mislead another's potential customers;

(11) Arising out of the violation of a person's right of privacy created by any state or federal act.

However, this exclusion does not apply to liability for damages that the insured would have in the absence of such state or federal act;

(12) Arising out of:

(a) An "advertisement" for others on your web site;

(b) Placing a link to a web site of others on your web site;

(c) Content from a web site of others displayed within a frame or border on your web site. Content includes information, code, sounds, text, graphics or images; or

(d) Computer code, software or programming used to enable:

(i) Your web site; or

(ii) The presentation or functionality of an "advertisement" or other content on your web site;

(13) Arising out of a violation of any anti-trust law;

(14) Arising out of the fluctuation in price or value of any stocks, bonds or other securities; or

(15) Arising out of discrimination or humiliation committed by or at the direction of any "executive officer", director, stockholder, partner or member of the insured.

q. Electronic Data

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate "electronic data".

r. Employment-Related Practices

"Bodily injury" or "personal and advertising injury" to:

(1) A person arising out of any:

(a) Refusal to employ that person;

(b) Termination of that person's employment; or

(c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at that person; or

(2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" or "personal and advertising injury" to the person at whom any of the employment-related practices described in Paragraphs **(a)**, **(b)**, or **(c)** above is directed.

This exclusion applies:

(1) Whether the insured may be liable as an employer or in any other capacity; and

(2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

s. Asbestos

(1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of the "asbestos hazard".

(2) Any damages, judgments, settlements, loss, costs or expenses that:

(a) May be awarded or incurred by reason of any claim or suit alleging actual or threatened injury or damage of any nature or kind to persons or property which would not have occurred in whole or in part but for the "asbestos hazard";

(b) Arise out of any request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, encapsulate, contain, treat, detoxify or neutralize or in any way respond to or assess the effects of an "asbestos hazard"; or

(c) Arise out of any claim or suit for damages because of testing for, monitoring, cleaning up, removing, encapsulating, containing, treating, detoxifying or neutralizing or in any way responding to or assessing the effects of an "asbestos hazard".

t. Violation Of Statutes That Govern E-Mails, Fax, Phone Calls Or Other Methods Of Sending Material Or Information

"Bodily injury", "property damage", or "personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

(1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;

(2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law, or

(3) Any statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating or distribution of material or information.

Damage To Premises Rented To You – Exception For Damage By Fire, Lightning or Explosion

Exclusions **c.** through **h.** and **k.** through **o.** do not apply to damage by fire, lightning or explosion to premises rented to you or temporarily occupied by you with permission of the owner. A separate Limit of Insurance applies to this coverage as described in Section **D.** - Liability And Medical Expenses Limits Of Insurance.

2. **Applicable To Medical Expenses Coverage**

We will not pay expenses for "bodily injury":

a. **Any Insured**

To any insured, except "volunteer workers".

b. **Hired Person**

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

c. **Injury On Normally Occupied Premises**

To a person injured on that part of premises you own or rent that the person normally occupies.

d. **Workers' Compensation And Similar Laws**

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

e. **Athletics Activities**

To a person injured while practicing, instructing or participating in any physical exercises or games, sports or athletic contests.

f. **Products-Completed Operations Hazard**

Included with the "products-completed operations hazard".

g. **Business Liability Exclusions**

Excluded under Business Liability Coverage.

C. WHO IS AN INSURED

1. If you are designated in the Declarations as:

a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.

b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.

c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.

d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.

e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

2. Each of the following is also an insured:

a. **Employees And Volunteer Workers**

Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business.

However, none of these "employees" or "volunteer workers" are insureds for:

(1) "Bodily injury" or "personal and advertising injury":

(a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), or to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;

(b) To the spouse, child, parent, brother or sister of that co-"employee" or that "volunteer worker" as a consequence of Paragraph **(1)(a)** above;

(c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs **(1)(a)** or **(b)** above; or

(d) Arising out of his or her providing or failing to provide professional health care services.

If you are not in the business of providing professional health care services, Paragraph **(d)** does not apply to any nurse, emergency medical technician or paramedic employed by you to provide such services.

(2) "Property damage" to property:

(a) Owned, occupied or used by,

(b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

b. **Real Estate Manager**

Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

c. **Temporary Custodians Of Your Property**

Any person or organization having proper temporary custody of your property if you die, but only:

(1) With respect to liability arising out of the maintenance or use of that property; and

(2) Until your legal representative has been appointed.

d. **Legal Representative If You Die**

Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this insurance.

e. **Unnamed Subsidiary**

Any subsidiary and subsidiary thereof, of yours which is a legally incorporated entity of which you own a financial interest of more than 50% of the voting stock on the effective date of this Coverage Part.

The insurance afforded herein for any subsidiary not shown in the Declarations as a named insured does not apply to injury or damage with respect to which an insured under this insurance is also an insured under another policy or would be an insured under such policy but for its termination or upon the exhaustion of its limits of insurance.

3. **Newly Acquired Or Formed Organization**

Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain financial interest of more than 50% of the voting stock, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier; and

b. Coverage under this provision does not apply to:

(1) "Bodily injury" or "property damage" that occurred; or

(2) "Personal and advertising injury" arising out of an offense committed

before you acquired or formed the organization.

4. **Operator Of Mobile Equipment**

With respect to "mobile equipment" registered in your name under any motor vehicle registration law, any person is an insured while driving such equipment along a public highway with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the equipment, and only if no other insurance of any kind is available to that person or organization for this liability. However, no person or organization is an insured with respect to:

a. "Bodily injury" to a co-"employee" of the person driving the equipment; or

b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

5. **Operator of Nonowned Watercraft**

With respect to watercraft you do not own that is less than 51 feet long and is not being used to carry persons for a charge, any person is an insured while operating such watercraft with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the watercraft, and only if no other insurance of any kind is available to that person or organization for this liability.

However, no person or organization is an insured with respect to:

a. "Bodily injury" to a co-"employee" of the person operating the watercraft; or

b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

6. **Additional Insureds When Required By Written Contract, Written Agreement Or Permit**

The person(s) or organization(s) identified in Paragraphs **a.** through **f.** below are additional insureds when you have agreed, in a written

contract, written agreement or because of a permit issued by a state or political subdivision, that such person or organization be added as an additional insured on your policy, provided the injury or damage occurs subsequent to the execution of the contract or agreement, or the issuance of the permit.

A person or organization is an additional insured under this provision only for that period of time required by the contract, agreement or permit.

However, no such person or organization is an additional insured under this provision if such person or organization is included as an additional insured by an endorsement issued by us and made a part of this Coverage Part, including all persons or organizations added as additional insureds under the specific additional insured coverage grants in Section **F.** – Optional Additional Insured Coverages.

a. Vendors

Any person(s) or organization(s) (referred to below as vendor), but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

(1) The insurance afforded to the vendor is subject to the following additional exclusions:

This insurance does not apply to:

(a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;

(b) Any express warranty unauthorized by you;

(c) Any physical or chemical change in the product made intentionally by the vendor;

(d) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

(e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;

(f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

(g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

(h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

(i) The exceptions contained in Subparagraphs **(d)** or **(f)**; or

(ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

(2) This insurance does not apply to any insured person or organization from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

b. Lessors Of Equipment

(1) Any person or organization from whom you lease equipment; but only with respect to their liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.

(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after you cease to lease that equipment.

c. **Lessors Of Land Or Premises**

(1) Any person or organization from whom you lease land or premises, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land or premises leased to you.

(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

(a) Any "occurrence" which takes place after you cease to lease that land or be a tenant in that premises; or

(b) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

d. **Architects, Engineers Or Surveyors**

(1) Any architect, engineer, or surveyor, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

(a) In connection with your premises; or

(b) In the performance of your ongoing operations performed by you or on your behalf.

(2) With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services by or for you, including:

(a) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or

(b) Supervisory, inspection, architectural or engineering activities.

e. **Permits Issued By State Or Political Subdivisions**

(1) Any state or political subdivision, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

(a) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or

(b) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

f. **Any Other Party**

(1) Any other person or organization who is not an insured under Paragraphs **a.** through **e.** above, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

(a) In the performance of your ongoing operations;

(b) In connection with your premises owned by or rented to you; or

(c) In connection with "your work" and included within the "products-completed operations hazard", but only if

(i) The written contract or written agreement requires you to provide such coverage to such additional insured; and

(ii) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

(a) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or

(b) Supervisory, inspection, architectural or engineering activities.

The limits of insurance that apply to additional insureds are described in Section **D.** – Limits Of Insurance.

How this insurance applies when other insurance is available to an additional insured is described in the Other Insurance Condition in Section **E.** – Liability And Medical Expenses General Conditions.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

D. LIABILITY AND MEDICAL EXPENSES LIMITS OF INSURANCE

1. The Most We Will Pay

The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

a. Insureds;

b. Claims made or "suits" brought; or

c. Persons or organizations making claims or bringing "suits".

2. Aggregate Limits

The most we will pay for:

a. Damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard" is the Products-Completed Operations Aggregate Limit shown in the Declarations.

b. Damages because of all other "bodily injury", "property damage" or "personal and advertising injury", including medical expenses, is the General Aggregate Limit shown in the Declarations.

This General Aggregate Limit applies separately to each of your "locations" owned by or rented to you.

"Location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway or right-of-way of a railroad.

This General Aggregate limit does not apply to "property damage" to premises while rented to you or temporarily occupied by you with permission of the owner, arising out of fire, lightning or explosion.

3. Each Occurrence Limit

Subject to **2.a.** or **2.b** above, whichever applies, the most we will pay for the sum of all damages because of all "bodily injury", "property damage" and medical expenses arising out of any one "occurrence" is the Liability and Medical Expenses Limit shown in the Declarations.

The most we will pay for all medical expenses because of "bodily injury" sustained by any one person is the Medical Expenses Limit shown in the Declarations.

4. Personal And Advertising Injury Limit

Subject to **2.b.** above, the most we will pay for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization is the Personal and Advertising Injury Limit shown in the Declarations.

5. Damage To Premises Rented To You Limit

The Damage To Premises Rented To You Limit is the most we will pay under Business Liability Coverage for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, lightning or explosion, while rented to you or temporarily occupied by you with permission of the owner.

In the case of damage by fire, lightning or explosion, the Damage to Premises Rented To You Limit applies to all damage proximately caused by the same event, whether such damage results from fire, lightning or explosion or any combination of these.

6. How Limits Apply To Additional Insureds

The most we will pay on behalf of a person or organization who is an additional insured under this Coverage Part is the lesser of:

a. The limits of insurance specified in a written contract, written agreement or permit issued by a state or political subdivision; or

b. The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to the Limits of Insurance shown in the Declarations and described in this Section

If more than one limit of insurance under this policy and any endorsements attached thereto applies to any claim or "suit", the most we will pay under this policy and the endorsements is the single highest limit of liability of all coverages applicable to such claim or "suit". However, this paragraph does not apply to the Medical Expenses limit set forth in Paragraph **3.** above.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

E. LIABILITY AND MEDICAL EXPENSES GENERAL CONDITIONS

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

a. Notice Of Occurrence Or Offense

You or any additional insured must 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. Notice Of Claim

If a claim is made or "suit" is brought against any insured, you or any additional insured must:

(1) Immediately record the specifics of the claim or "suit" and the date received; and

(2) Notify us as soon as practicable.

You or any additional insured must see to it that we receive a written notice of the claim or "suit" as soon as practicable.

c. Assistance And Cooperation Of The Insured

You and any other involved insured must:

(1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";

(2) Authorize us to obtain records and other information;

(3) Cooperate with us in the investigation, settlement of the claim or defense against the "suit"; and

(4) Assist us, upon our request, in the enforcement of any right against any person or organization that may be liable to the insured because of injury or damage to which this insurance may also apply.

d. Obligations At The Insured's Own Cost

No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

e. Additional Insured's Other Insurance

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance.

f. Knowledge Of An Occurrence, Offense, Claim Or Suit

Paragraphs **a.** and **b.** apply to you or to any additional insured only when such "occurrence", offense, claim or "suit" is known to:

(1) You or any additional insured that is an individual;

(2) Any partner, if you or an additional insured is a partnership;

(3) Any manager, if you or an additional insured is a limited liability company;

(4) Any "executive officer" or insurance manager, if you or an additional insured is a corporation;

(5) Any trustee, if you or an additional insured is a trust; or

(6) Any elected or appointed official, if you or an additional insured is a political subdivision or public entity.

This Paragraph **f.** applies separately to you and any additional insured.

3. **Financial Responsibility Laws**

   a. When this policy is certified as proof of financial responsibility for the future under the provisions of any motor vehicle financial responsibility law, the insurance provided by the policy for "bodily injury" liability and "property damage" liability will comply with the provisions of the law to the extent of the coverage and limits of insurance required by that law.

   b. With respect to "mobile equipment" to which this insurance applies, we will provide any liability, uninsured motorists, underinsured motorists, no-fault or other coverage required by any motor vehicle law. We will provide the required limits for those coverages.

4. **Legal Action Against Us**

   No person or organization has a right under this Coverage Form:

   a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or

   b. To sue us on this Coverage Form unless all of its terms have been fully complied with.

   A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this insurance or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

5. **Separation Of Insureds**

   Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this policy to the first Named Insured, this insurance applies:

   a. As if each Named Insured were the only Named Insured; and

   b. Separately to each insured against whom a claim is made or "suit" is brought.

6. **Representations**

   a. **When You Accept This Policy**

      By accepting this policy, you agree:

      (1) The statements in the Declarations are accurate and complete;

      (2) Those statements are based upon representations you made to us; and

      (3) We have issued this policy in reliance upon your representations.

   b. **Unintentional Failure To Disclose Hazards**

      If unintentionally you should fail to disclose all hazards relating to the conduct of your business at the inception date of this Coverage Part, we shall not deny any coverage under this Coverage Part because of such failure.

7. **Other Insurance**

   If other valid and collectible insurance is available for a loss we cover under this Coverage Part, our obligations are limited as follows:

   a. **Primary Insurance**

      This insurance is primary except when **b.** below applies. If other insurance is also primary, we will share with all that other insurance by the method described in **c.** below.

   b. **Excess Insurance**

      This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

      (1) **Your Work**

      That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

      (2) **Premises Rented To You**

      That is fire, lightning or explosion insurance for premises rented to you or temporarily occupied by you with permission of the owner;

      (3) **Tenant Liability**

      That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;

      (4) **Aircraft, Auto Or Watercraft**

      If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion **g.** of Section **A.** – Coverages.

      (5) **Property Damage To Borrowed Equipment Or Use Of Elevators**

      If the loss arises out of "property damage" to borrowed equipment or the use of elevators to the extent not subject to Exclusion **k.** of Section **A.** – Coverages.

(6) When You Are Added As An Additional Insured To Other Insurance

That is other insurance available to you covering liability for damages arising out of the premises or operations, or products and completed operations, for which you have been added as an additional insured by that insurance; or

(7) When You Add Others As An Additional Insured To This Insurance

That is other insurance available to an additional insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this Coverage Part:

(a) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract, written agreement or permit that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in **c.** below.

(b) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs **(a)** and **(b)** do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty under this Coverage Part to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

(1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

If all the other insurance permits contribution by equal shares, we will follow this method also. Under this approach, each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

8. Transfer Of Rights Of Recovery Against Others To Us

a. Transfer Of Rights Of Recovery

If the insured has rights to recover all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them. This condition does not apply to Medical Expenses Coverage.

b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.

F. OPTIONAL ADDITIONAL INSURED COVERAGES

If listed or shown as applicable in the Declarations, one or more of the following Optional Additional Insured Coverages also apply. When any of these Optional Additional Insured Coverages apply, Paragraph **6.** (Additional Insureds When Required by Written Contract, Written Agreement or Permit) of Section **C.**, Who Is An Insured, does not apply to the person or organization shown in the Declarations. These coverages are subject to the terms and conditions applicable to Business Liability Coverage in this policy, except as provided below:

1. **Additional Insured - Designated Person Or Organization**

   WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

   a. In the performance of your ongoing operations; or

   b. In connection with your premises owned by or rented to you.

2. **Additional Insured - Managers Or Lessors Of Premises**

   a. WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Designated Person Or Organization; but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Declarations.

   b. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

   This insurance does not apply to:

   (1) Any "occurrence" which takes place after you cease to be a tenant in that premises; or

   (2) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

3. **Additional Insured - Grantor Of Franchise**

   WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Grantor Of Franchise, but only with respect to their liability as grantor of franchise to you.

4. **Additional Insured - Lessor Of Leased Equipment**

   a. WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Lessor of Leased Equipment, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s).

   b. With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after you cease to lease that equipment.

5. **Additional Insured - Owners Or Other Interests From Whom Land Has Been Leased**

   a. WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Owners Or Other Interests From Whom Land Has Been Leased, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land leased to you and shown in the Declarations.

   b. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

   This insurance does not apply to:

   (1) Any "occurrence" that takes place after you cease to lease that land; or

   (2) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

6. **Additional Insured - State Or Political Subdivision – Permits**

   a. WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the state or political subdivision shown in the Declarations as an Additional

Insured – State Or Political Subdivision - Permits, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

b. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

(1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or

(2) "Bodily injury" or "property damage" included in the "product-completed operations" hazard.

7. Additional Insured – Vendors

a. WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) (referred to below as vendor) shown in the Declarations as an Additional Insured - Vendor, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

b. The insurance afforded to the vendor is subject to the following additional exclusions:

(1) This insurance does not apply to:

(a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;

(b) Any express warranty unauthorized by you;

(c) Any physical or chemical change in the product made intentionally by the vendor;

(d) Repackaging, unless unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

(e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;

(f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

(g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

(h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

(i) The exceptions contained in Subparagraphs **(d)** or **(f)**; or

(ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

(2) This insurance does not apply to any insured person or organization from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

8. Additional Insured – Controlling Interest

WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Controlling Interest, but only with respect to their liability arising out of:

a. Their financial control of you; or

b. Premises they own, maintain or control while you lease or occupy these premises.

This insurance does not apply to structural alterations, new construction and demolition operations performed by or for that person or organization.

9. **Additional Insured – Owners, Lessees Or Contractors – Scheduled Person Or Organization**

   a. WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Owner, Lessees Or Contractors, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

      (1) In the performance of your ongoing operations for the additional insured(s); or

      (2) In connection with "your work" performed for that additional insured and included within the "products-completed operations hazard", but only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

   b. With respect to the insurance afforded to these additional insureds, this insurance does not apply to "bodily injury", "property damage" or "personal an advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

      (1) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or

      (2) Supervisory, inspection, architectural or engineering activities.

10. **Additional Insured – Co-Owner Of Insured Premises**

    WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or Organization(s) shown in the Declarations as an Additional Insured – Co-Owner Of Insured Premises, but only with respect to their liability as co-owner of the premises shown in the Declarations.

The limits of insurance that apply to additional insureds are described in Section **D.** – Limits Of Insurance.

How this insurance applies when other insurance is available to an additional insured is described in the Other Insurance Condition in Section **E.** – Liability And Medical Expenses General Conditions.

G. LIABILITY AND MEDICAL EXPENSES DEFINITIONS

1. "Advertisement" means the widespread public dissemination of information or images that has the purpose of inducing the sale of goods, products or services through:

   a. (1) Radio;
      (2) Television;
      (3) Billboard;
      (4) Magazine;
      (5) Newspaper;

   b. The Internet, but only that part of a web site that is about goods, products or services for the purposes of inducing the sale of goods, products or services; or

   c. Any other publication that is given widespread public distribution.

   However, "advertisement" does not include:

   a. The design, printed material, information or images contained in, on or upon the packaging or labeling of any goods or products; or

   b. An interactive conversation between or among persons through a computer network.

2. "Advertising idea" means any idea for an "advertisement".

3. "Asbestos hazard" means an exposure or threat of exposure to the actual or alleged properties of asbestos and includes the mere presence of asbestos in any form.

4. "Auto" means a land motor vehicle, trailer or semi-trailer designed for travel on public roads, including any attached machinery or equipment. But "auto" does not include "mobile equipment".

5. "Bodily injury" means physical:

   a. Injury;

   b. Sickness; or

   c. Disease

   sustained by a person and, if arising out of the above, mental anguish or death at any time.

6. "Coverage territory" means:

a. The United States of America (including its territories and possessions), Puerto Rico and Canada;

b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in **a.** above;

c. All other parts of the world if the injury or damage arises out of:

(1) Goods or products made or sold by you in the territory described in **a.** above;

(2) The activities of a person whose home is in the territory described in **a.** above, but is away for a short time on your business; or

(3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication

provided the insured's responsibility to pay damages is determined in the United States of America (including its territories and possessions), Puerto Rico or Canada, in a "suit" on the merits according to the substantive law in such territory, or in a settlement we agree to.

7. "Electronic data" means information, facts or programs:

a. Stored as or on;

b. Created or used on; or

c. Transmitted to or from

computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

8. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".

9. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.

10. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.

11. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:

a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or

b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by:

a. The repair, replacement, adjustment or removal of "your product" or "your work"; or

b. Your fulfilling the terms of the contract or agreement.

12. "Insured contract" means:

a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning or explosion to premises while rented to you or temporarily occupied by you with permission of the owner is subject to the Damage To Premises Rented To You limit described in Section D. – Liability and Medical Expenses Limits of Insurance.

b. A sidetrack agreement;

c. Any easement or license agreement, including an easement or license agreement in connection with construction or demolition operations on or within 50 feet of a railroad;

d. Any obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;

e. An elevator maintenance agreement; or

f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization, provided the "bodily injury" or "property damage" is caused, in whole or in part, by you or by those acting on your behalf. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph **f.** includes that part of any contract or agreement that indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing.

However, Paragraph **f.** does not include that part of any contract or agreement:

(1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:

(a) Preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or

(b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or

(2) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in **(1)** above and supervisory, inspection, architectural or engineering activities.

13. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

14. "Loading or unloading" means the handling of property:

a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";

b. While it is in or on an aircraft, watercraft or "auto"; or

c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

15. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;

b. Vehicles maintained for use solely on or next to premises you own or rent;

c. Vehicles that travel on crawler treads;

d. Vehicles, whether self-propelled or not, on which are permanently mounted:

(1) Power cranes, shovels, loaders, diggers or drills; or

(2) Road construction or resurfacing equipment such as graders, scrapers or rollers;

e. Vehicles not described in **a.**, **b.**, **c.**, or **d.** above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:

(1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or

(2) Cherry pickers and similar devices used to raise or lower workers;

f. Vehicles not described in **a.**, **b.**, **c.**, or **d.** above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

(1) Equipment, of at least 1,000 pounds gross vehicle weight, designed primarily for:

(a) Snow removal;

(b) Road maintenance, but not construction or resurfacing; or

(c) Street cleaning;

(2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and

(3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

16. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

17. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:

a. False arrest, detention or imprisonment;

b. Malicious prosecution;

c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that the person occupies, committed by or on behalf of its owner, landlord or lessor;

d. Oral, written or electronic publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;

e. Oral, written or electronic publication of material that violates a person's right of privacy;

f. Copying, in your "advertisement", a person's or organization's "advertising idea" or style of "advertisement";

g. Infringement of copyright, slogan, or title of any literary or artistic work, in your "advertisement"; or

h. Discrimination or humiliation that results in injury to the feelings or reputation of a natural person.

18. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

19. "Products-completed operations hazard";

a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:

(1) Products that are still in your physical possession; or

(2) Work that has not yet been completed or abandoned. However, "your work" will be deemed to be completed at the earliest of the following times:

(a) When all of the work called for in your contract has been completed.

(b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.

(c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

The "bodily injury" or "property damage" must occur away from premises you own or rent, unless your business includes the selling, handling or distribution of "your product" for consumption on premises you own or rent.

b. Does not include "bodily injury" or "property damage" arising out of:

(1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured; or

(2) The existence of tools, uninstalled equipment or abandoned or unused materials.

20. "Property damage" means:

a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or

b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of "occurrence" that caused it.

As used in this definition, "electronic data" is not tangible property.

21. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or

b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

22. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

23. "Volunteer worker" means a person who:

a. Is not your "employee";

b. Donates his or her work;

c. Acts at the direction of and within the scope of duties determined by you; and

d. Is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

24. "Your product":

a. Means:

(1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:

(a) You;

(b) Others trading under your name; or

(c) A person or organization whose business or assets you have acquired; and

(2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

b. Includes:

(1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and

(2) The providing of or failure to provide warnings or instructions.

c. Does not include vending machines or other property rented to or located for the use of others but not sold.

25. "Your work":

a. Means:

(1) Work or operations performed by you or on your behalf; and

(2) Materials, parts or equipment furnished in connection with such work or operations.

b. Includes:

(1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and

(2) The providing of or failure to provide warnings or instructions.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT - CALIFORNIA

Policy Number: 72 WEC AX7UEX **Endorsement Number:**
Effective Date: 07/01/23 Effective hour is the same as stated on the Information Page of the policy.
Named Insured and Address: Eadie and Payne, LLP
3880 LEMON ST STE 300
RIVERSIDE CA 92501

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be 2 % of the California workers' compensation premium otherwise due on such remuneration.

SCHEDULE

Person or Organization	Job Description
Any person or organization for whom you are required by written contract or agreement to obtain this waiver of rights from us	

Countersigned by _____
Authorized Representative

EXHIBIT D

CONSULTANT/PROFESSIONAL SERVICES AGREEMENT (CITY of Oxnard and Eadie and Payne, LLP (EadiePayne))

LIVING WAGE POLICY

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

A. CONSULTANT shall compensate any employee of CONSULTANT who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as the Living Wage Policy Exhibit. While this Agreement is in effect, CONSULTANT shall pay such employee no less than $18.89 per hour for each hour that such employee provides services under this Agreement. In addition, while this Agreement is in effect, CONSULTANT shall provide to such employee no less than 96 hours of paid leave per calendar year.

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

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

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

CITY OF OXNARD LIVING WAGE REQUIREMENTS
EFFECTIVE JULY 1, 2023

CONSULTANT shall compensate any employee of CONSULTANT who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as Exhibit D. While this Agreement is in effect, CONSULTANT shall pay such employee no less than $18.89 per hour for each hour that such employee provides services under this Agreement. This hourly rate shall be adjusted on July 1, 2024, and each July 1 thereafter, according to the percentage change in the Consumer Price Index, all items, prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers (CPI-U), index base 1982-84=100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, CONSULTANT shall provide to such employee no less than 96 hours of paid leave per calendar year.

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

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

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

CITY COUNCIL AGENDA REPORT

INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. L.8

DATE: September 5, 2023

TO: City Council

FROM: Alexander Hamilton, Fire Chief, (805) 385-7700, alexander.hamilton@oxnard.org

SUBJECT: Response to Grand Jury Finding and Recommendation

RECOMMENDATION

That the City Council comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the Council's control related to the Ventura County Grand Jury Report "Water Availability for Wildfires in Ventura County" dated June 12, 2023, and the Mayor also comment on the findings and recommendations and submit such comments through the form titled "Response to 2022-2023 Ventura County Grand Jury Report Form."

(This item did not originate in Committee)

BACKGROUND

On June 12, 2023, the Ventura County Civil Grand Jury ("Grand Jury") delivered the attached Final Report on Water Availability for Wildfires in Ventura County ("County"). The City of Oxnard ("City") is required to respond to the Grand Jury's Finding (F-14) and Recommendation (R-09) directed to the City:

"F-14. The Grand Jury finds that Ventura County Fire Code section 4907.8 regarding brush clearance around water tanks, water supply pumps, pump houses, and related infrastructure applies to all rural and unincorporated communities and all cities except Fillmore, Oxnard, and Ventura. (SF-19, SF-20, SF-21)"

"R-09. The Grand Jury recommends that Ventura City Fire Department, Oxnard Fire Department, and Fillmore Fire Department adopt the Ventura County standard for brush clearance around water tanks, water supply pumps, pump houses, and related infrastructure. (F-14)"

DISCUSSION

The User Note for Chapter 49 of the Ventura County Fire Code, which includes section 4907.8, notes: "this chapter contains requirements for development and construction in Local Responsibility Areas (LRA) designated as Very High Fire Hazard Severity Zones and areas designated by the Board of Forestry and Fire Protection as State Responsibility Areas (SRA). ... This chapter includes Ventura County Fire Protection District (VCFPD) amendments and local provisions applicable in WUI [Wildland Urban Interface] areas identified by the VCFPD." Ventura County Fire Code Section 4901.2 provides: "The purpose of this chapter is to provide minimum standards to reduce the likelihood of life and property loss due to a wildfire through the use of performance and prescriptive requirements for construction and development in State Responsibility Areas (SRA) and Local Responsibility Areas (LRA) designated as a Moderate, High or Very High Fire Hazard Severity Zone. This chapter also provides requirements for defensible space within the boundaries of the VCFPD."

The City does not have a WUI, nor is it in a designated Fire Severity Zone. Ventura County Fire Code section 4907.8, cited in F-14, regarding brush clearance around water tanks, water supply pumps, pump houses, and related infrastructure is not applicable in the City of Oxnard. Accordingly, staff recommends responding that R-09 will not be implemented

because Chapter 49 of the CFC is not relevant in the Oxnard Jurisdiction. City ordinances, State statutes and regulations, and City policies currently in effect (i.e., OCC 7-2 (defining "weeds"), OCC 7-151 (nuisance conditions), OCC 14-8 and 14-9 (adopting by reference and providing local amendments to International Property Maintenance Code and Uniform Code for Abatement of Dangerous Buildings), Cal. Fire Code section 304 (combustible waste material), Cal. Public Resources Code sections 4171 (public nuisance) and 4201 et seq. (fire hazard severity zones), and City of Oxnard Public Works Standard for vegetation management) address vegetation management around structures, including critical infrastructure.

The recommended form of response required pursuant to Penal Code section 933.05 is attached. If the Council approves the recommended action, the explanation set forth in this agenda report will be attached to the response form to be submitted to the Presiding Judge of the Superior Court.

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: Karsten Guthrie, Battalion Chief

ATTACHMENTS

1. GJ-Report_2022-23_WaterAvailabilityForWildFiresInVenturaCounty
2. Wildfire Water.Grand Jury Transmittal - Response Form.2023

2022 - 2023
Ventura County Grand Jury

Final Report

Water Availability for Wildfires in Ventura County

June 12, 2023

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Water Availability for Wildfires in Ventura County

SUMMARY

In the 2017 Thomas fire and the 2018 Woolsey fire, water shortages hampered firefighters' ability to protect structures. Ventura County frequently experiences conditions of low humidity, high winds and dry brush, conducive to dangerous wildland fires. Ventura County has ninety-six percent of its rural and unincorporated lands classified as very high fire zones.

The 2022-2023 Ventura County Grand Jury conducted an investigation of current protocols and procedures utilized by 15 Ventura County public water purveyors to supply adequate water for wildland fire suppression.

The Grand Jury finds that having written procedures for actions taken by public water purveyors during a Fire Weather Watch, Red Flag Warning, active fire and/or Public Safety Power Shutoffs due to wildfires is a best practice that is lacking in Ventura County.

The Grand Jury finds that most public water purveyors do not have adequate backup power in the event of disruptions due to fire damage or loss of utility power.

The Grand Jury finds that notification to Ventura County public water purveyors of impending Fire Weather Watches and Red Flag Warnings is inconsistent due to out-of-date contact lists at the Ventura County Office of Emergency Services.

The Grand Jury finds that inadequate communication between adjoining Ventura County public water purveyors limits their ability to coordinate available resources, including water transfers.

The Grand Jury finds that the cities of Fillmore, Oxnard and Ventura have not adopted language concerning brush clearance around water infrastructure that is consistent with Ventura County Fire Code.

The Grand Jury recommends that Ventura County water purveyors establish written operational procedures and training to provide for increased water supply during Fire Weather Watch, Red Flag Warning, active fire and Public Safety Power Shutoff events for purposes of firefighting.

The Grand Jury recommends that Ventura County water purveyors have on-site emergency power available for all critical water infrastructure.

The Grand Jury recommends that the Ventura County Office of Emergency Services maintain a current contact list of Ventura County water purveyors, updated at least once a year.

The Grand Jury recommends that Ventura County water purveyors establish common communication protocols with adjoining water purveyors to be able to coordinate needed actions, including water transfers.

The Grand Jury recommends that all Ventura County water purveyors establish a protocol for brush clearance around pumps, water tanks and supported infrastructure in accordance with Ventura County's Fire Code.

METHODOLOGY

The Grand Jury held interviews with Ventura County public water purveyors (hereinafter water purveyors), city and county officials and fire department officials. The Grand Jury also reviewed numerous documents in making its findings.

1. Water purveyors operating procedures, written policies and emergency response plans
2. Water purveyors, city, county and fire department websites
3. State of California Fire Code, State of California Fire Code amendments and State of California related building codes and their amendments
4. County of Ventura Fire Code, County of Ventura Fire Code amendments and County of Ventura related building codes with their amendments
5. Cities Fire Codes, Cities Fire Code amendments, Cities related building codes with their amendments
6. California Division of Drinking Water Regulations
7. California Water Code
8. National Weather Service data base
9. Local National Weather Service definitions
10. Numerous articles regarding climate change
11. State Responsibility Area Fire Hazard Severity Zones
12. Southern California Edison information regarding Public Safety Power Shutoff
13. Numerous historical articles on wildfires
14. Articles on Wildland-Urban Interface
15. After-action reports on the Thomas and Woolsey wildfires
16. US EPA Incident Action Checklists for Water Utilities
17. Public Safety Power Shutoff and Wildfire Information for Public Water Systems
18. US EPA Water Storage Tank time of water in water storage tanks
19. FCC Wireless Priority Service for cell phone priority in emergencies
20. Government Emergency Telecommunications Network for landline phone priority in emergencies
21. CalWARN network

BACKGROUND

Between 1972 and 2018, California experienced a fivefold increase in annual burned area, with several extremely large and destructive Wildland-Urban Interface (WUI) wildfires. (Ref-01, Att-01) WUI areas are defined as the location where structures and communities "meet or intermingle" with undeveloped wildland. WUI fires occur when fuels are critically dry, weather is warm, humidity is low and sustained high speed winds are prevalent. (Ref-01, Ref-02, Ref-03, Ref-04, Att-02)

In 2017, wildland fires destroyed 6200 homes and killed 44 people in California. Additionally in 2018, 14,000 homes were destroyed killing 85 people, which resulted in an estimated loss of $15-19 billion. (Ref-03)

Ventura County has experienced numerous large destructive WUI fires between 2003 and 2018, punctuated by the 2017 Thomas Fire and the 2018 Woolsey Fire (Ref-05, Att-03). Ventura Counties wildland fires from 1965 thru 2015 are displayed in Attachment-04. (Ref-06)

Ventura County consists of 1,223,000 acres area that includes approximately 574,000 acres of national forest land (47%), approximately 528,000 acres of rural land and unincorporated land (43%) and approximately 121,000 acres of urban development (10%). (Ref-07) Ninety-six percent of the rural and unincorporated land of Ventura County is classified as a very high fire hazard zone. (Ref-08, Ref-09, Ref-11, Att-05)

The National Weather Service (NWS) provides advisories of impending atmospheric conditions conducive to generation of wildland fires. When these conditions are predicted, a Fire Weather Watch (FWW) advisory is issued between 24 and 72 hours in advance. A Red Flag Warning (RFW) is then issued when these conditions are present. For the last 10 years, the average annual occurrence of FWWs and RFWs combined is 5.5 times per year, each occurrence averaging 3 days in length, for a total of 16.5 days per year. (Ref-02, Ref-10, Att-02, Att-06)

When a FWW or a RFW advisory occurs, some Ventura County water purveyors that store and distribute water are contacted by the Ventura County Office of Emergency Services (OES). Other water purveyors monitor the weather or have direct contact with the NWS to be notified when a FWW or RFW condition occurs or is imminent. However, some Ventura County water purveyors are not advised by either the NWS or OES regarding impending extreme weather conditions. (Ref-11)

When a FWW advisory is issued by the NWS, water purveyors generally initiate procedures preparing their water infrastructure and water storage for potential use in suppression of wildfires. Under RFW conditions, the water purveyors may give priority in storage and distribution of water to firefighting over drinking water quality, raising the quantity of water in storage tanks. (Ref-11). If no wildfire occurs, aging water in storage tanks may degrade in quality, requiring water purveyors to

flush the aging water or give special notice to consumers to take measures to maintain water safe for consumption. (Ref-11, Ref-12, Ref-13)

Generally, water purveyors monitor and regulate the flow of water through wells, pumps, and water storage tanks/reservoirs using Supervisory Control and Data Acquisition (SCADA) computer systems. (Ref-11) These systems depend upon constant reliable electrical power, which can be disrupted by the effects of a wildfire or a Public Safety Power Shutoff (PSPS) by the electrical provider. (Ref-14)

In case of electrical power loss, water purveyors can utilize batteries and generators to provide emergency backup power to their SCADA systems, pumps, wells and other water infrastructure. (Ref-15, Ref-16, Ref-17) This allows the water purveyors to continually provide water for customer consumption and fire suppression after fire damage to electrical systems or temporary shutdown of electrical power. (Ref-11, Ref-14)

In response to FWW and/or RFW, water purveyors generally adjust their water system operations, increasing water flow rates, water storage in tanks and reservoirs for the potential use in wildfire fighting. Water purveyors have a varied range of time to fill their water storage tanks from a few hours to three days if completely dry. The average time is 4 to 8 hours depending on levels maintained during normal operating conditions. Due to the speed wildfires are capable of traveling, some water purveyors start filling water storage tanks during the FWW. (Ref-11, Ref-18, Ref-19)

In general, Ventura County water purveyors lack established common communication protocols to coordinate needed resources among the purveyors, including water transfers. (Ref-11)

In the last 20 years, Ventura County has experienced seven major wildfires. (Ref-04, Att-03) The 2017 Thomas and 2018 Woolsey wildfires challenged water purveyors' ability to keep water sufficiently supplied to firefighters because of a loss of power to water infrastructure, coupled with the speed and size of the wildfires. (Ref-18, Ref-19, Ref-20)

Not all Ventura County water purveyors who are governed by the Ventura County Fire Code keep dry fuels away from pumps and wells, violating Ventura County Ordinance 32 Section 4907.8 The code states: "clearance requirements… shall apply to communication site towers and their support Buildings; required fire protection water supplies including water tanks, water supply pumps and pump houses; and any other utility Structure as required by the Fire Code Official." (Ref-21)

DISCUSSION (Statements of Fact)

SF-01. The United States Environmental Protection Agency (US EPA) and the California State Water Board have published guidelines for water purveyors recommending preparations for wildfires, including increased water storage, reliable power and personnel training. (Ref-22, Ref-23, Ref-24)

SF-02. During an RFW, all water purveyors surveyed increase the water level in storage tanks. (Ref-11)

SF-03. When a fast-moving wildfire increases in size and water storage tanks do not have adequate supply for firefighting, hydrants may run out of water. (Ref-18, Ref-19, Ref-20)

SF-04. During past Ventura County wildfires, firefighters have experienced hydrants that have run dry. (Ref-11, Ref-15, Ref-19, Ref-20)

SF-05. For the last ten years, the average number of days that Ventura County has been under Fire Weather Watch (FWW) is 5.5 days, with an average duration of one day. (Ref-10, Att-06)

SF-06. For the last ten years, the average number of days that Ventura County has been under Red Flag Warning (RFW) is 11 days, with an average duration of two days. (Ref-10, Att-06)

SF-07. One of fifteen water purveyors surveyed have written response procedures for FWW notification and RFW notification. (Ref-11)

SF-08. Four of fifteen water purveyors surveyed have written response procedures for an active fire. (Ref-11)

SF-09. One of fifteen water purveyors surveyed have written response procedures for PSPS notifications. (Ref-11)

SF-10. Two out of fifteen water purveyors surveyed have formal written training procedures to follow when preparing for FWW, RFW, active fire or PSPS scenarios. (Ref-11, Ref-16)

SF-11. Five out of fifteen water purveyors surveyed have permanent backup power to all their critical water infrastructure. (Ref-11)

SF-12. Five out of fifteen water purveyors surveyed have SCADA systems with emergency battery and backup power. (Ref-11)

SF-13. The US EPA's published guidelines for wildfire preparation include establishing shared communication protocols with neighboring utilities. (Ref-22, Ref-24)

SF-14. Three of fifteen water purveyors surveyed have a common radio protocol with adjoining water purveyors to coordinate needed actions and rapid water supply transfers. (Ref-11, Ref-17)

SF-15. Contact lists used by Ventura County OES, currently supplied by the Association of Water Agencies, are out of date by two years. (Ref-11, Ref-25)

SF-16. Six of fifteen water purveyors surveyed have enrolled their employees in the FCC Wireless Priority Service (WPS) for cell phone priority in emergencies. (Ref-26)

SF-17. Enrolling in the Government Emergency Telecommunication System (GETS) provides subscribers with priority access to landline telephone networks in emergency situations. (Ref-27)

SF-18. Three of fifteen water purveyors surveyed are members of California Water/Wastewater Agency Response Network (CalWARN) which is a mutual aid network that provides emergency resources statewide. (Ref-28)

SF-19. The Ventura County Fire Code applies to all local jurisdictions which contract with Ventura County Fire for their fire department service. (Ref-11, Ref-21)

SF-20. The cities of Fillmore, Oxnard and Ventura have their own fire departments and have not adopted the Ventura County Fire Code. (Ref-11, Ref-29, Ref-30, Ref-31)

SF-21. Two water purveyors surveyed are not subject to Ventura County Fire Code requirements that address brush clearance around water tanks, water supply pumps, pump houses and related infrastructure. (Ref-11, Ref-21)

FINDINGS

F-01. The Grand Jury finds that an adequate supply of water is essential for successful suppression of wildfires. (SF-01, SF-02, SF-03, SF-04)

F-02. The Grand Jury finds that the limited number of Fire Weather Watch (FWW) advisories amplifies the importance of establishing written procedures, protocols and training. (SF-01, SF-05, SF-07, SF-10)

F-03. The Grand Jury finds that written procedures for actions taken by water purveyors during a Fire Weather Watch event is a best practice that is lacking in Ventura County. (SF-01, SF-05, SF-07, SF-10)

F-04. The Grand Jury finds that the limited number of Red Flag Warning (RFW) events amplifies the importance of establishing written procedures, protocols, and training. (SF-01, SF-06, SF-07, SF-10)

F-05. The Grand Jury finds that written procedures for actions taken by water purveyors during a Red Flag Warning event is a best practice that is lacking in Ventura County. (SF-01, SF-06, SF-07, SF-10)

F-06. The Grand Jury finds that written procedures for actions taken by water purveyors during an active fire event is a best practice that is lacking in Ventura County. (SF-01, SF-08, SF-10)

F-07. The Grand Jury finds that written procedures for actions taken by water purveyors during Public Safety Power Shutoff (PSPS) events is a best practice that is lacking in Ventura County. (SF-01, SF-09, SF-10)

F-08. The Grand Jury finds that backup power to critical infrastructure is not always available. (SF-01, SF-11)

F-09. The Grand Jury finds that SCADA systems are not equipped with backup power in all instances. (SF-01, SF-12)

F-10. The Grand Jury finds that inadequate communication between adjoining water purveyors limits the ability to coordinate needed actions such as available water transfers. (SF-13, SF-14)

F-11. The Grand Jury finds that notification to water purveyors of FWWs and RFWs is inconsistent due to out-of-date contact lists. (SF-13, SF-15)

F-12. The Grand Jury finds that enrolling in GETS and WPS would allow Ventura County water purveyors priority access to landline and cellular telephone networks in emergency situations. (SF-16, SF-17)

F-13. The Grand Jury finds that enrolling in CalWARN would allow Ventura County water purveyors access to statewide resources. (SF-18)

F-14. The Grand Jury finds that Ventura County Fire Code section 4907.8 regarding brush clearance around water tanks, water supply pumps, pump houses and related infrastructure applies to all rural and unincorporated communities, and all cities except Fillmore, Oxnard and Ventura. (SF-19, SF-20, SF-21)

RECOMMENDATIONS

R-01. The Grand Jury recommends that water purveyors establish written operational procedures and training to provide for increased water supply for fire flow during FWWs, RFWs, active fires and PSPS. (F-01, F-02, F-03, F-04, F-05, F-06, F-07)

R-02. The Grand Jury recommends that water purveyors have emergency power on site for all critical water infrastructure including SCADA systems. (F-08, F-09)

R-03. The Grand Jury recommends that water purveyors establish common communication protocols with adjoining water purveyors to coordinate needed actions, including water transfers during active fires. (F-10)

R-04. The Grand Jury recommends that Ventura County Sheriff's OES develop a current contact list of water purveyors, updated at least once a year. (F-11)

R-05. The Grand Jury recommends that water purveyors enroll their employees in the FCC Wireless Priority Service (WPS) providing cell phone priority in emergencies. (F-12)

R-06. The Grand Jury recommends that water purveyors enroll in the Government Emergency Telecommunications System (GETS) providing landline phone priority in emergencies. (F-12)

R-07. The Grand Jury recommends that all water purveyors enroll in CalWARN, a network of water and wastewater agencies that can provide emergency resources. (F-13)

R-08. The Grand Jury recommends that all water purveyors provide brush clearance around water tanks, water supply pumps, pump houses and related infrastructure. (F-14)

R-09. The Grand Jury recommends that Ventura City Fire Department, Oxnard Fire Department and Fillmore Fire Department adopt the Ventura County standard for brush clearance around water tanks, water supply pumps, pump houses and related infrastructure. (F-14)

RESPONSES

Responses required from:

The following elected officer within 60 days:

Ventura County Sheriff (F-11, R-04)

The following governing bodies within 90 days:

Camrosa Water District, Board of Directors (F-01, F-02, F-03, F-04, F-05, F-06, F-07, F-08, F-09, F-10, F-12, F-13, F-14, R-01, R-02, R-03, R-05, R-06, R-07, R-08)

Casitas Municipal Water District, Board of Directors (F-01, F-02, F-03, F-04, F-05, F-06, F-07, F-08, F-09, F-10, F-12, F-13, F-14, R-01, R-02, R-03, R-05, R-06, R-07, R-08)

City of Camarillo, City Council (F-01, F-02, F-03, F-04, F-05, F-06, F-07, F-08, F-09, F-10, F-12, F-13, F-14, R-01, R-02, R-03, R-05, R-06, R-07, R-08)

City of Fillmore, City Council (F-01, F-02, F-03, F-04, F-05, F-06, F-07, F-08, F-09, F-10, F-12, F-13, F-14, R-01, R-02, R-03, R-05, R-06, R-07, R-08, R-09)

City of Oxnard, City Council (F-14, R-09)

City of Santa Paula, City Council (F-01, F-02, F-03, F-04, F-05, F-06, F-07, F-08, F-09, F-10, F-12, F-13, F-14, R-01, R-02, R-03, R-05, R-06, R-07, R-08)

City of Simi Valley, City Council (F-01, F-02, F-03, F-04, F-05, F-06, F-07, F-08, F-09, F-10, F-12, F-13, F-14, R-01, R-02, R-03, R-05, R-06, R-07, R-08)

City of Thousand Oaks, City Council (F-01, F-02, F-03, F-04, F-05, F-06, F-07, F-08, F-09, F-10, F-12, F-13, F-14, R-01, R-02, R-03, R-05, R-06, R-07, R-08)

City of Ventura, City Council (F-01, F-02, F-03, F-04, F-05, F-06, F-07, F-08, F-09, F-10, F-12, F-13, F-14, R-01, R-02, R-03, R-05, R-06, R-07, R-08, R-09)

Meiners Oaks Water District, Board of Directors (F-01, F-02, F-03, F-04, F-05, F-06, F-07, F-08, F-09, F-10, F-12, F-13, F-14, R-01, R-02, R-03, R-05, R-06, R-07, R-08)

Triunfo Water & Sanitation District, Board of Directors (F-01, F-02, F-03, F-04, F-05, F-06, F-07, F-08, F-09, F-10, F-12, F-13, F-14, R-01, R-02, R-03, R-05, R-06, R-07, R-08)

Ventura County Board of Supervisors (F-01, F-02, F-03, F-04, F-05, F-06, F-07, F-08, F-09, F-10, F-12, F-13, F-14, R-01, R-02, R-03, R-05, R-06, R-07, R-08)

Ventura River Water District, Board of Directors (F-01, F-02, F-03, F-04, F-05, F-06, F-07, F-08, F-09, F-10, F-12, F-13, F-14, R-01, R-02, R-03, R-05, R-06, R-07, R-08)

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Ref-27 *Government Emergency Telecommunications Service (GETS).* Federal Communications Commission. (n.d.). https://www.fcc.gov/general/government-emergency-telecommunications-service retrieved May 20, 2023

Ref-28 *Calwarn*. CALWARN. (n.d.). https://www.calwarn.org/ retrieved May 20, 2023

Ref-29 Municode Library. (n.d.). https://library.municode.com/ca/fillmore/codes/code_of_ordinances?nodeId=TIT5BUCO_CH5.04COFIPRCOAM_5.04.060CAFICO&showChanges=true
retrieved May 22, 2023

Ref-30 American Legal Publishing. (n.d.). https://codelibrary.amlegal.com/codes/oxnard/latest/oxnard_ca/0-0-0-49799
retrieved May 22, 2023

Ref-31 Viewer – Primegov Portal. (n.d.). https://ventura.primegov.com/portal/viewer?id=305229&type=2
retrieved May 22, 2023

GLOSSARY

TERM	DEFINITION
CalWARN	California Water/Wastewater Agency Response Network
FCC	Federal Communications Commission
FWW	Fire Weather Watch
GETS	Government Emergency Telecommunications System
NWS	National Weather Service
OES	(Ventura County) Office of Emergency Services
PSPS	Public Safety Power Shutoff
RFW	Red Flag Warning
SCADA	Supervisory Control And Data Acquisition
US EPA	United States Environmental Protection Agency
WFO	Weather Forecast Office
WPS	Wireless Priority Service
WUI	Wildland Urban Interface

ATTACHMENTS

Att-01. Seasonal and annual burned areas in California for 1972–2018

Att-02. Red Flag Criteria (Los Angeles/Oxnard)

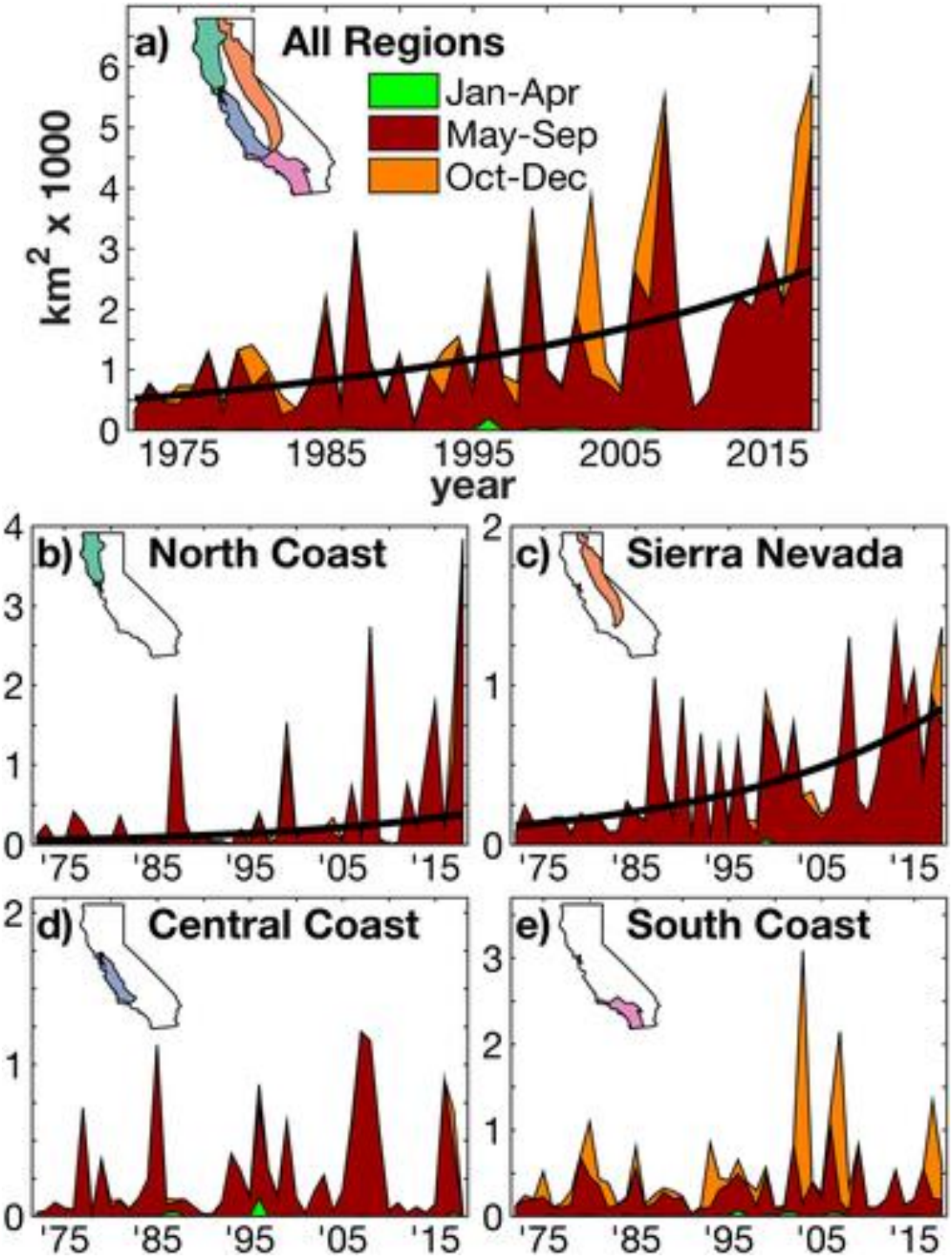
Att-03. Ventura County Major Fire Perimeters, last 20 years

Att-04. Wildfires History Map

Att-05. Ventura County Fire Hazard Severity Zones

Att-06. FWWs and RFWs in Ventura County, last 10 years

Attachment-01



Seasonal and annual burned areas in California for 1972–2018

Source: Ref-01

Attachment-02

Los Angeles/Oxnard National Weather Service Criteria

Red Flag Criteria

Weather Forecast Office (WFO)

Los Angeles/Oxnard

Red Flag Criteria requires dry fuels and any one of the following:

1. Relative Humidity 13 percent or less with either sustained winds 25 mph or greater or frequent gusts 35 mph or greater (duration of 6 hours or more)

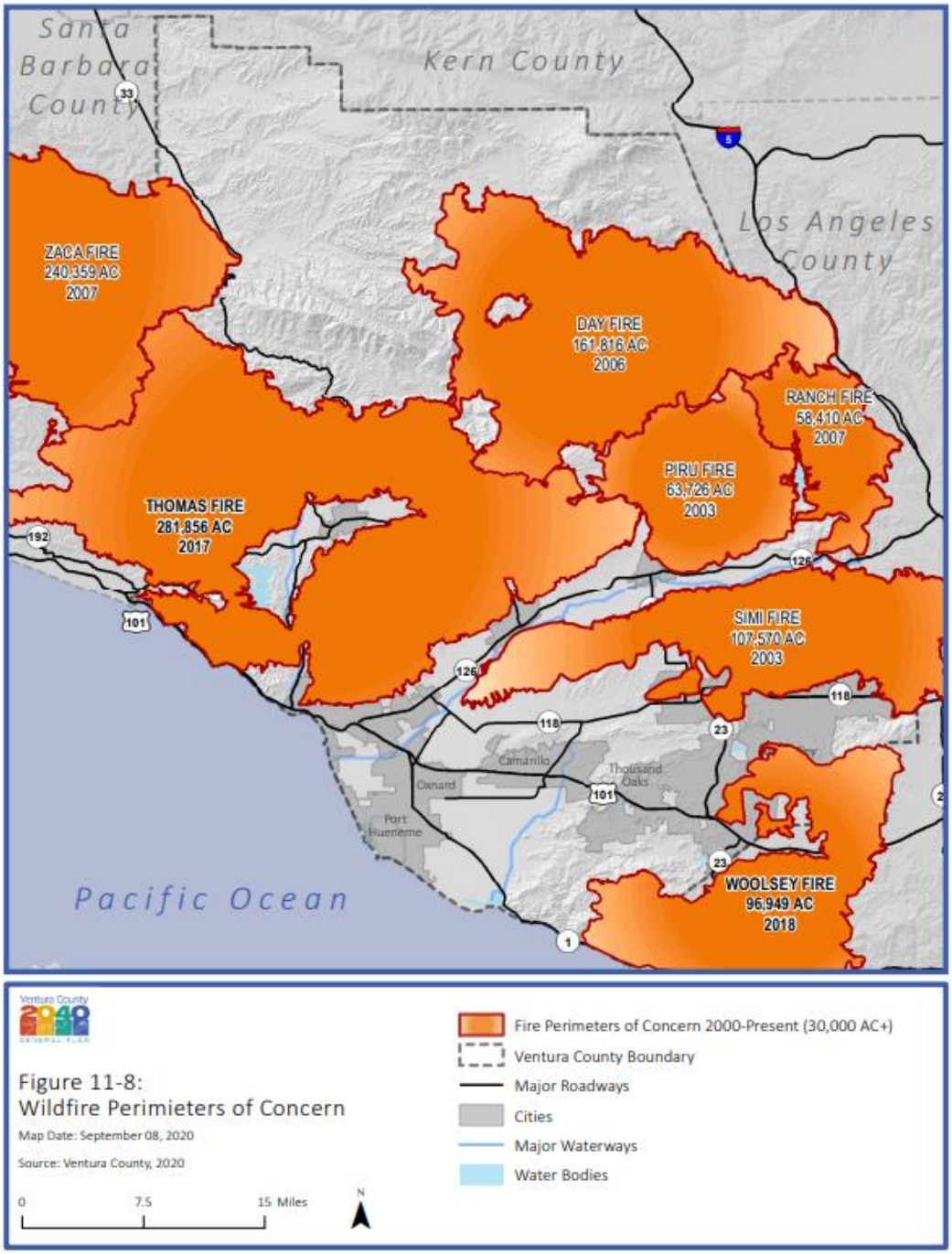
2. Relative Humidity 10 percent or less with either sustained winds 15 mph or greater or frequent gusts 25 mph or greater (duration of 6 hours or more)

3. Widespread and/or significant Dry Lighting

4. Other (forecaster discretion) unusual but significant metrological and/or fuel conditions in coordination with Geographic Area Coordination Centers (GACC) or local agency

Source: Ref-04

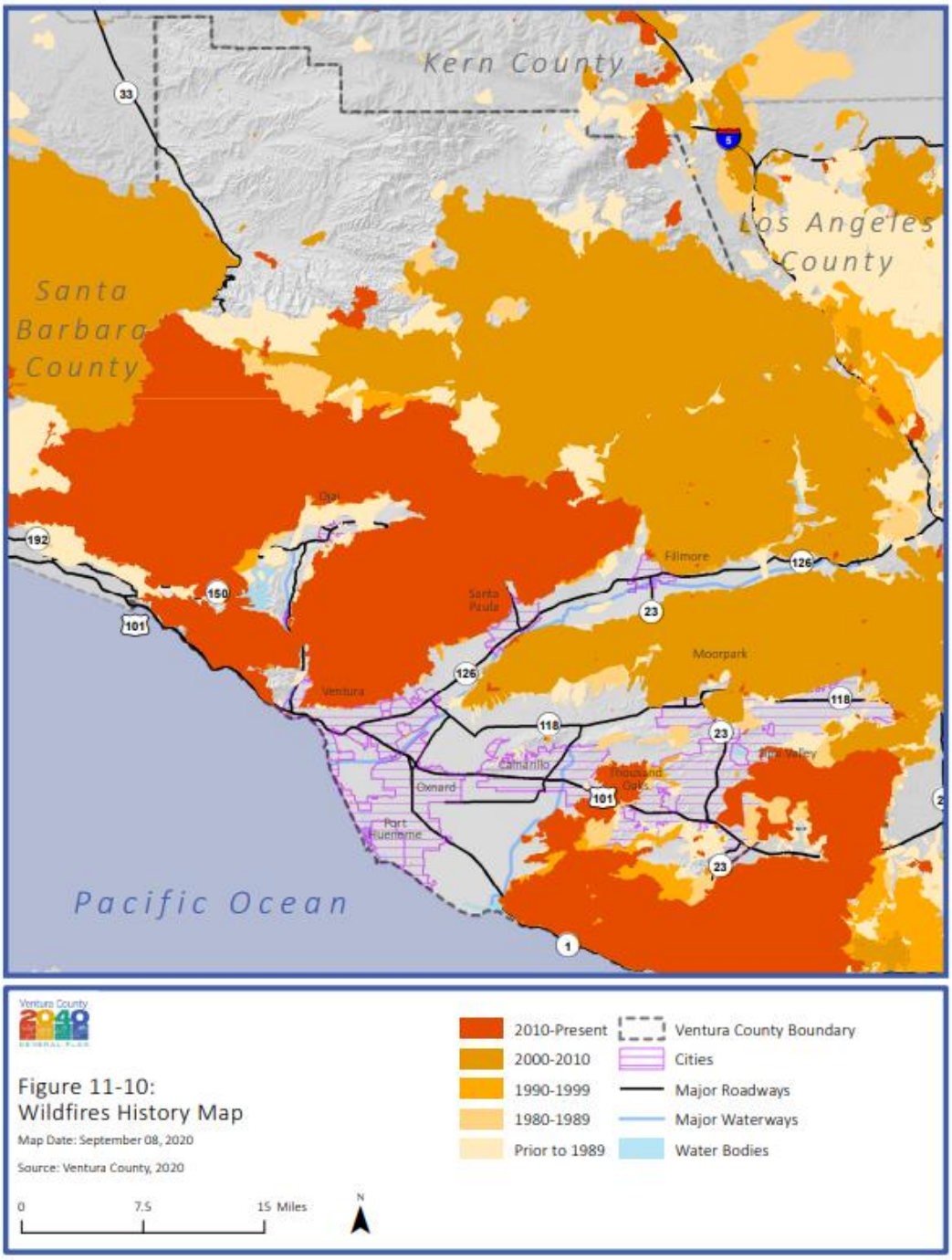
Attachment-03



September 2020 Section 11.2: Flood Hazards
11-37

Source: Ref-05

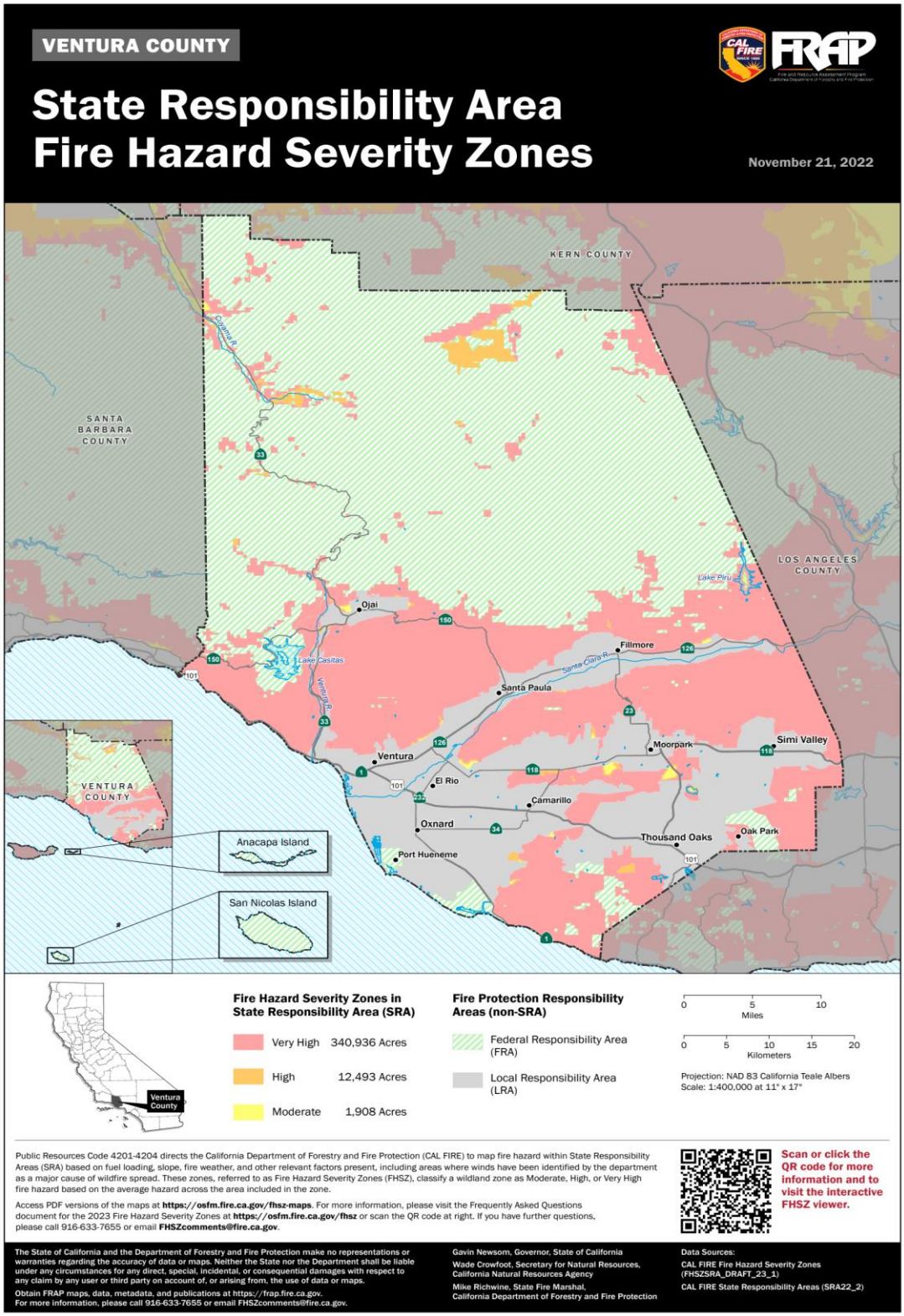
Attachment-04



Section 11.3: Wildfire Hazards September 2020
11-48

Source: Ref-06

Attachment-05



Source: Ref-09

Attachment-06

Agency	Location of agency	# of Fire Weather Watch Alerts	10 Year Avg Fire Weather Watch Alerts	Total number of Fire Weather Watch days	Avg # of Days per Fire Weather Watch Alert	Number of Red Flag Warnings	10 Year Average Red Flag Warnings	Total number of Red Flag Warning days	Avg # of Days per Red Flag Warning Alert	Longitude	latitude
Camarillo Water	Camarillo	45	4.50	47.05	1.05	49	4.90	84.26	1.72	34.2164	-119.0376
Ventura County WWD #19	Somis	45	4.50	47.05	1.05	49	4.90	84.26	1.72	34.2584	-118.9956
Meiners Oaks WD	Meiners Oaks	54	5.40	53.07	0.98	56	5.60	109.46	1.95	34.4480	-119.2429
Upper Ventura WD	Ojai	54	5.40	53.07	0.98	56	5.60	109.46	1.95	34.4291	-119.2974
Ventura County WWD# 17	Bell Canyon	57	5.70	56.03	0.98	59	5.90	112.75	1.91	34.2081	-118.6875
Camrosa WD	Santa Rosa Valley	57	5.70	56.03	0.98	59	5.90	112.75	1.91	34.2456	-118.9011
Fillmore Water	Fillmore	57	5.70	56.03	0.98	59	5.90	112.75	1.91	34.3992	-118.9182
Ventura County WWD # 38	Lake Sherwood	57	5.70	56.03	0.98	59	5.90	112.75	1.91	34.1261	-118.8880
Ventura County WWD#1	Moorpark	57	5.70	56.03	0.98	59	5.90	112.75	1.91	34.2856	-118.8820
Triunfo WD	Oak Park	57	5.70	56.03	0.98	59	5.90	112.75	1.91	34.1751	-118.7580
Santa Paula Water	Santa Paula	57	5.70	56.03	0.98	59	5.90	112.75	1.91	34.3542	-119.0593
Simi Valley WWD #8	Simi Valley	57	5.70	56.03	0.98	59	5.90	112.75	1.91	34.2694	-118.7815
Thousand Oaks Water	Thousand Oaks	57	5.70	56.03	0.98	59	5.90	112.75	1.91	34.1811	-118.9110
Ventura Water	Ventura	57	5.70	56.03	0.98	59	5.90	112.75	1.91	34.2914	-119.2259
Trunfio WD	Westlake Village	59	5.9	58.32	0.99	59	5.9	107.07	1.81	34.1438	-118.7996
Average		**55**	**5.51**	**54.59**	**0.99**	**57**	**5.73**	**108.13**	**1.88**		
Average Total Days					**5.47**				**10.79**	**16.26**	

Compiled by the Grand Jury from the National Weather Service data base (Ref-10)

COUNTY of VENTURA
Grand Jury

800 South Victoria Avenue
Ventura, CA 93009
Tel (805) 477-1600
Fax (805) 658-4523
grandjury.countyofventura.org

Confidential

Mayor John C. Zaragoza
City of Oxnard, City Council
300 West 3rd St.
Oxnard, Ca. 93030

The 2022-2023 Ventura County Grand Jury has completed the attached report titled *Water Availability for Wildfires in Ventura County.* Also attached is a copy of California Penal Code Section 933.05. This copy of the report is being provided to you two working days in advance of its public release, as required by California Penal Code Section 933.05(f).

California Penal Code Section 933.05 also requires the City of Oxnard, City Council to respond to the Findings and Recommendations of the Grand Jury in the report. Please review the section of the report titled "RESPONSES" for the specific Findings and Recommendations to which you are required to respond.

You are required to submit your responses in writing within **90 days** to: The Honorable Kevin G. DeNoce, Presiding Judge, Superior Court of California, County of Ventura, 800 S. Victoria Avenue, Ventura, CA 93003. Please also send a written copy of your responses to: Ventura County Grand Jury, 800 S. Victoria Avenue, Ventura, CA 93009.

Please keep in mind that this report must be kept confidential until it is publicly released by the Grand Jury. Should you have any questions, please contact the Grand Jury Foreperson at GrandJuryFAX.POCAO.VCISD@Ventura.org.

Respectfully,

Keith Frost

Foreperson

Ventura County Grand Jury (2022-2023)

COUNTY of VENTURA
Grand Jury

800 South Victoria Avenue
Ventura, CA 93009
Tel (805) 477-1600
Fax (805) 658-4523
grandjury.countyofventura.org

Response to 2022-2023 Ventura County Grand Jury Report Form
(Please See California Penal Code Section 933.05)

Report Title: *Water Availability for Wildfires in Ventura County*

Responding Entity: Mayor John C. Zaragoza, City of Oxnard, City Council

FINDINGS

- I (we) agree with the Findings numbered: F-14
- I (we) disagree wholly or partially with the Findings numbered: _____
  (Attach a statement specifying any portions of the Findings that are disputed; include an explanation of the reasons.)

RECOMMENDATIONS

- Recommendations numbered _____ have been implemented.
  (Attach a summary describing the implemented actions.)
- Recommendations numbered _____ have not yet been implemented but will be implemented in the future.
  (Attach a summary indicating the timeframe for implementation.)
- Recommendations numbered _____ require further analysis.
  (Attach an explanation to include: scope and parameters of the analysis or study and timeframe for the matter to be prepared for discussion with the agency or department head. The timeframe shall not exceed six months from the date of publication of the report.)
- Recommendations numbered R-09 will not be implemented because they are not warranted or are not reasonable.
  (Attach an explanation.)

Date: _____ Signed: _____

Title: _____

Number of pages attached: _____

California Penal Code Section 933.05

(a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:
(1) The respondent agrees with the finding.
(2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:
(1) The recommendation has been implemented, with a summary regarding the implemented action.
(2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

(c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

(d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.

(e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.

(f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.

CITY COUNCIL AGENDA REPORT

INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. L.9

DATE: September 5, 2023

TO: City Council

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

SUBJECT: First Amendment to Professional Services Agreement A-8491 with Tetra Tech, Inc. for Professional Engineering Services for the Kamala and Hobson Cast Iron Pipe Replacement Project PW 22-83.

RECOMMENDATION

That the City Council approve and authorize the execution of a First Amendment to a Professional Services Agreement with Tetra Tech, Inc. (Tetra Tech) to increase the not to exceed amount from $850,000 to $947,000 for additional design work required for the Kamala and Hobson Cast Iron Pipe Replacement 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

Cast iron pipe water lines within the City of Oxnard 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.

On October 4, 2022, the City Council approved Agreement A-8491 with Tetra Tech, in the amount of $850,000, for design services for the Kamala and Hobson Cast Iron Pipe Replacement Project. The original scope of work included preparing a preliminary engineering study, design drawings, specifications, and bid documents for the design and construction phase engineering services of new water mains in various locations throughout the Kamala and Hobson Neighborhoods. The Project will replace approximately 48,700 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.

Capital Improvement Program (CIP) Reference:

Project No. **226502 (C2227) & 226503 (C2228)**– Kamala and Hobson Cast Iron Pipe Replacement Project, Specification No. PW 22-105 - CIP 2022-2027 - Adopted May 3, 2022 – Page 125 & 126.

DISCUSSION

Tetra Tech submitted the Draft Preliminary Design Report (PDR) with 30% design level plans on April 21, 2023, and held a virtual meeting on May 22, 2023, with the City discussing comments to the PDR. As a result of the design review meeting, the City requested Tetra Tech to:

- Prepare high-line plans and details for pipelines to be replaced-in-place preventing long-term disruption to service.
- Perform an additional 41 potholes recommended in the PDR due to missing as-built plans and limited plan view as-builts provided by Southern California Edison.
- Perform additional pavement repair for potholing and geotechnical investigation.

- Divide the Project into three separate construction packages in order to spread the construction costs over a longer period of time, consistent with the recent Water Rate Study.

The proposal was reviewed by the Project Manager and the Supervising Civil Engineer.

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 amount of this First Amendment to Agreement A-8491 with Tetra Tech shall not exceed an additional $97,000 for a new, not to exceed contract amount of $947,000, for professional design services. The Kamala and Hobson Cast Iron Pipe Replacement Project No. C2228 has just over $180,000 in available budget to cover this contract increase within the Water Capital Fund (602) to fund this agreement.

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: Timothy Beaman, Supervising Civil Engineer

ATTACHMENTS

1. A-8491 Tetra Tech, Inc.
2. Amendment A-8491

AGREEMENT FOR PROFESSIONAL SERVICES
COVER PAGE

(1) Agreement Start Date: October 4, 2022

(2) Consultant: Tetra Tech, Inc.

(3) Services: Professional Engineering Services for the Hobson and Kamala Water Cast Iron Pipe Replacement Project

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

(5) Agreement Ending Date: October 4, 2025

(6) Total Agreement Amount: $850,000

(7) City's Project Manager: Jorge Espinoza, Project Manager

(8) Consultant's Project Manager: Laurence Esguerra, P.E., Project Manager

(9) Insurance Coverage: INS-A

(10) Addresses for Notice:

FOR CONSULTANT:

Tetra Tech, Inc.
17885 Von Karman Ave. Suite 500
Irvine, CA 92614-5227
Attn: Laurence Esguerra, P.E., Project Manager

FOR CITY:

City of Oxnard
305 West Third, East Wing, 2nd Floor
Oxnard, CA 93030
Attn: Jorge Espinoza, Project Manager

(11) Contact Emails:

CONSULTANT'S PROJECT MANAGER:

laurence.esguerra@tetratech.com

CITY'S PROJECT MANAGER:

jorge.espinoza@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
☒ Schedule of Services Exhibit
☒ Rates and Costs Exhibit
☒ Insurance Exhibit (INS-A)
☒ Prevailing Wage Exhibit

COUNCIL APPROVED
10/4/22 mg
DATE

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: pwinvoices@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

10-4-22

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

TETRA TECH, INC.

8/22/2022

Richard A. Lemmon, Senior Vice President[2] Date

8/22/2022

Preston Hopson, Secretary Date

ATTEST:

10/6/22

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

APPROVED AS TO FORM:

9/1/2022

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

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[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.

SCOPE OF SERVICES EXHIBIT

Consultant to perform engineering design services for the replacement of approximately 60,150 LF of existing cast iron pipe water distribution mains (ranging from 8" to 12" in diameter) including associated valves, fire hydrants and other appurtenances.

The project shall also include resurfacing/paving of streets for long sections where pipe is to be replaced.

Task 1: Program Management

1. Project Management. Consultant shall coordinate all efforts of the Project Team including representatives from the City of Oxnard's Public Works Department and Water Division (City). The Consultant shall facilitate regular Project progress meetings and provide monthly written updates on the Project status and budget.
2. Project Kick-off Meeting. At the commencement of the Project, the Consultant shall facilitate a "kick-off" meeting with the City's engineering and operations staff to discuss the scope and parameters of the Project. The Consultant shall prepare and distribute a draft agenda in advance of the meeting for review and comment by the City.
3. Progress Meetings. Consultant shall attend monthly meetings at the City for the duration of the project. As part of the effort, the Consultant is responsible for developing meeting information and an agenda prior to the meeting and meeting minutes within three business days following the meeting with complete action tracking log.
4. Project Schedule. Consultant shall develop a project schedule at the beginning of the project that covers preliminary design, recommendations, design drawings, specifications, construction cost estimate, bid documents, and bid/award support services. Project schedule shall be submitted with the proposal and shall be updated within 2 weeks of the kickoff meeting.
5. Project Communication. Consultant shall develop a communications protocol to be followed by all team members to be submitted within one week of starting the project. Communication protocol will include standard project communication as well as emergency communication protocols.
6. Project Coordination. Consultant shall coordinate all of the services of sub-consultants including site visits and site inspections, and shall ensure coordination with the City operations and engineering staff and other interested parties as outlined by the City.

7. Quality Assurance and Quality Control (QA/QC). The Consultant shall develop a QA/QC plan, to be followed for all submittals, within two weeks of starting the project. The plan shall include the staff who are responsible for reviewing design and documentation as well as the means for integrating review comments from the City.
8. Monthly Invoicing. The Consultant shall submit invoices on a monthly basis with all supporting documentation in a format acceptable to the City. Invoices requiring amendment shall be dated according to when the revised invoice is delivered to the City. Invoices shall be delivered electronically to the Project Manager and to PWInvoices@Oxnard.org.

Task 2: Preliminary Design

The consultant shall conduct land survey work as necessary to adequately complete the design, file permit applications, and provide reference points for construction layouts. As a minimum, property lines, right-of-ways, easements, topographic information, location of existing landmarks (e.g. edge of road, sidewalks, buildings, trees, valves, meter boxes, etc.) and underground utility locations are to be included. The engineer shall coordinate with the City and other utility owners to obtain underground utility information prior to the survey. If deemed necessary, the consultant shall conduct subsurface utility engineering locates to determine the location of important underground facilities.

The Consultant shall determine which permits are required for the project, including CEQA documentation, prepare and submit the necessary applications, and provide technical input as required in securing these permits. The consultant shall also provide the City with information regarding the approximate length of review time for each permit, and any special requirements that could delay this process.

The Consultant shall develop a project phasing plan to ensure utility service is maintained throughout the course of the construction project and construction impacts are minimized.

1. Site Survey: The Consultant shall include an allowance in its proposal to perform topographic and/or aerial surveys along the pipelines to be replaced. Aerial photography shall be at a minimum of 1-foot intervals to be used on a 1" = 40' scale plan and profile drawings. Survey information shall include, at a minimum, elevations, northings and eastings of existing street infrastructure and all appurtenances (i.e. sidewalks, curb and gutter, utility

boxes, catch basins, utility covers, manholes, fences, driveways, medians, trees, vegetation, etc.). A benchmark and line of bearing shall be established and shall be tied to existing survey control. Electronic CAD files (.DWF) of each topographic survey shall be transmitted to the City and provided as a base map for the project.

2. Geotechnical Borings: The Consultant shall engage a geotechnical service firm to take 25 bore log samples to a minimum depth of six feet and determine the characteristics of the formation. A geotechnical analysis shall be completed by the Consultant and include the determination of needing imported backfill material and removal of unsuitable soil.
3. Potholing: The Consultant shall include an allowance in its proposal to perform exploratory excavations (i.e. "potholing") at 25 locations, at a minimum depth of 6 feet.
4. Preliminary Drawings: Develop plan and profile drawings equivalent to the 30-percent design level.
5. List of Specification: The preliminary design submittal shall include a list of anticipated technical specifications for all aspects of the facilities construction.

Deliverable

The Consultant shall submit the preliminary design electronically in the appropriate format (dwg & pdf).

Task 3: Pipeline 75% Design Services

The Consultant shall create a design, equivalent to the 75-percent design level, including various components such as design criteria, plan and profile drawings, connection details and cross sections. The Consultant shall produce the following 75% design deliverables:

1. General/Civil Design:
    a. Title Sheet
    b. Vicinity and location maps with contacts
    c. Drawing index, general notes, symbols, abbreviations, and legends
    d. Referenced Standards and Specifications
2. Pipeline Design:
    a. Plan and Profile Drawings: The Consultant shall prepare plan and profiles drawings to the 75% design level.
    b. Pipeline and Utility Key Map.
    c. Details: Consultant shall design connection details.

d. Backfill: Consultant shall provide design mix for all backfill material per the geotechnical report.

3. Paving and Resurfacing

a. Develop trenching, backfill, paving and resurfacing drawings.

b. Striping plan

c. Provide a standard design pavement section that adheres to the City Standards. The design shall consider and include limits of replacement.

4. Traffic Control:

a. Stipulate traffic control requirements per the City of standards and permitting requirements. Include requirements as a line item on the bid documents for the Contractor to complete.

5. Specifications:

a. Preliminary technical specification with draft text in all sections

6. Prepare Preliminary Construction Cost Estimate: Consultant shall prepare a preliminary construction estimate (Level 4 standard per the Association of Construction Cost Estimators) based on the PDR. This initial cost estimate will be updated throughout the final design process. Cost estimates shall include operating costs.

Deliverable

The Consultant shall provide the 75% design package containing drawings and specifications electronically and four (4) sets of 22"x34" (D Size) drawings.

Task 5: Pipeline Final Design Services

Consultant shall provide final design services that include full preparation of drawings, specifications, general and special provisions. The Consultant shall incorporate the review comments from the preliminary design phase into the 100% design package with the intermediate 90% submittal. The 100% design package shall include all bid documents, front-end documents, technical specifications, and drawings suitable for public bid. Subtasks include:

1. 90% Design Submittal: Drawings and specifications from the preliminary design phase shall be modified to account for any remaining design changes as a result of the preliminary (75%) design review. At the end of the 90 percent design phase, drawings and specifications shall be complete. The following tasks are to be completed:

a. Civil drawings and details

b. Pipeline drawings and details

c. Paving and trench repair plans

d. Traffic control drawings (as required)

e. Specifications

f. Construction cost estimate

g. Construction schedule

Deliverable

The Consultant shall provide the 90% design package (electronically)

2. Final Design Submittal: During the final design phase, minor comments from the 90 percent design submittal shall be incorporated into the drawings and specifications. This final submittal will not be reviewed by the City and will be considered the bid set. Tasks include:

a. Production of final engineering drawings

b. Production of final engineering specifications

c. The Consultant shall prepare a probable construction cost estimate to be transmitted along with the final 100% design package.

Deliverable

The Consultant shall provide the final design package (electronically). All drawings shall be prepared using AutoCAD 2018 or later.

Task 6: Bid Phase Services

The Consultant shall provide assistance to the City during the project advertisement and award period. Bid phase assistance shall include, at a minimum, the following:

1. Preparation of addenda in response to requests for information (RFIs) and requests for clarification (RFCs) received during the bid period.
2. Attendance and participation in the mandatory pre-bid meeting.
3. The Consultant shall incorporate all addenda issued during the Bid Period into a conformed set of contract documents within one week of the Bid Opening. Consultant shall provide the City with a written response to questions within two business days of questions received during the bidding period. The responses shall be provided in short memorandum format with the question and response shown. Consultant shall also keep a log of the questions and responses.

Task 7 – Pipeline Construction Phase Services

Engineering services during construction (ESDC) shall include, at a minimum, the following:

1. Preconstruction Conference: Attendance and participation in the Pre-Construction Conference.
2. Project Meetings: Attendance and participation in the Bi-Weekly Project Progress Meetings with the construction contractor and all Project stakeholders.
3. Submittal Review: Consultant shall review all shop drawing and material submittals transmitted by the construction contractor.
4. Change Order Review: Consultant shall review all change order requests submitted by the construction contractor. The Consultant shall review each request and make a formal statement regarding entitlement and the merit of the contractor's request.
5. Project Close-out: The Consultant shall assist in the development of Project punch lists and coordinate the delivery of all Project-related documentation.

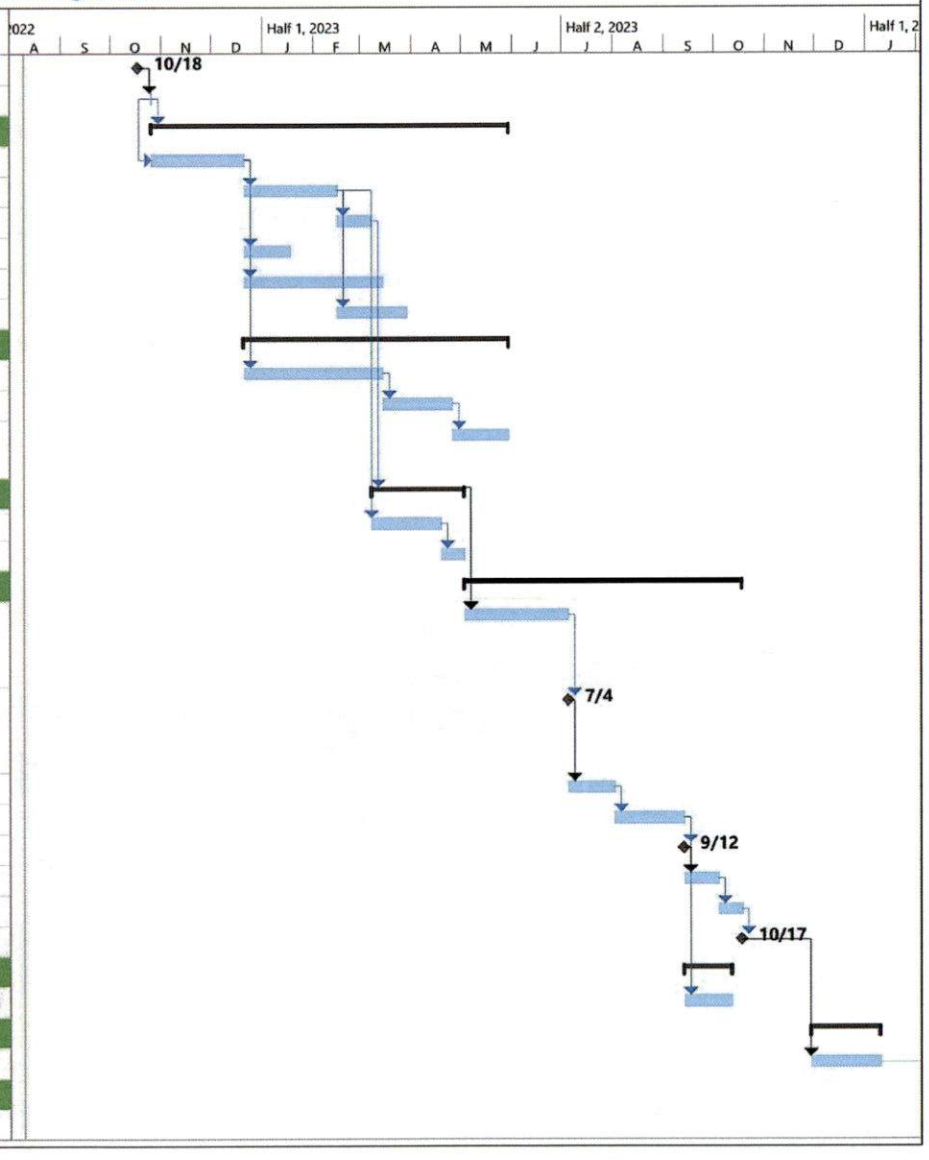
Record Drawings

The Consultant shall prepare a record drawing set based on the red-line drawings submitted by the construction contractor. The record drawings shall be prepared using the version of AutoCAD 2018 or later and shall be transmitted to the City within 30 calendar days of receipt of the contractor's red-line drawings. Electronic copies of the record drawings shall be submitted to the City in both AutoCAD and PDF formats.

SCHEDULE OF SERVICES EXHIBIT

City of Oxnard
Hobson and Kamala Water Cast Iron Pipe Replacement Project
City Project PW22-83
Project Schedule
Revised August 8, 2022

ID	Task Name	Duration	Start	Finish
1	Notice-to-Proceed	0 days	Tue 10/18/22	Tue 10/18/22
2	Kick-off Meeting	1 day	Tue 10/25/22	Tue 10/25/22
3	Analysis and Preliminary Design	154 days	Wed 10/26/22	Mon 5/29/23
4	Utility Research	40 days	Wed 10/26/22	Tue 12/20/22
5	Basemap Preparation	40 days	Wed 12/21/22	Tue 2/14/23
6	Site Visit	15 days	Wed 2/15/23	Tue 3/7/23
7	Design Survey	20 days	Wed 12/21/22	Tue 1/17/23
8	Geotechnical Investigation	60 days	Wed 12/21/22	Tue 3/14/23
9	Potholing Services	30 days	Wed 2/15/23	Tue 3/28/23
10	CEQA Documents	114 days	Wed 12/21/22	Mon 5/29/23
11	Prepare IS/MND	60 days	Wed 12/21/22	Tue 3/14/23
12	Public Review IS/MND	30 days	Wed 3/15/23	Tue 4/25/23
13	Written Responses and Final IS/MND	24 days	Wed 4/26/23	Mon 5/29/23
14	30% Plan and Profile	40 days	Wed 3/8/23	Tue 5/2/23
15	Submit 30% Plan and Profile	30 days	Wed 3/8/23	Tue 4/18/23
16	City Review	10 days	Wed 4/19/23	Tue 5/2/23
17	Preparation of Contract Documents	120 days	Wed 5/3/23	Tue 10/17/23
18	Prepare Final Preliminary Design Memorandum and 75% Design Submittal	45 days	Wed 5/3/23	Tue 7/4/23
19	Submit Final Preliminary Design Memorandum and 75% Design Submittal	0 days	Tue 7/4/23	Tue 7/4/23
20	City Review	20 days	Wed 7/5/23	Tue 8/1/23
21	Prepare 90% Design Submittal	30 days	Wed 8/2/23	Tue 9/12/23
22	Submit 90% Design Submittal	0 days	Tue 9/12/23	Tue 9/12/23
23	City Review	15 days	Wed 9/13/23	Tue 10/3/23
24	Prepare Final Design Submittal	10 days	Wed 10/4/23	Tue 10/17/23
25	Submit Final Design Submittal	0 days	Tue 10/17/23	Tue 10/17/23
26	Permitting	21 days	Wed 9/13/23	Wed 10/11/23
27	City of Oxnard	21 days	Wed 9/13/23	Wed 10/11/23
28	Construction Bidding Support	30 days	Wed 11/29/23	Tue 1/9/24
29	Bidding Support	30 days	Wed 11/29/23	Tue 1/9/24
30	Construction Engineering Support	260 days	Wed 2/21/24	Tue 2/18/25
31	Engineering Support	260 days	Wed 2/21/24	Tue 2/18/25



RATES AND COSTS EXHIBIT

Price Proposal — Revision Date: Apr 11, 2022

Hobson and Kamala Water Cast Iron Pipe Replacement Project

Pipeline Replacement Project

Submitted to: City of Oxnard (Attn: Purchasing Division)

Contract Type: T&M

Labor Plan — 14 Resource

Project Phases / Tasks	Schedule From	Schedule Thru	Schedule Months	Work Days Off	Work Days	Total Labor Hrs	Program Manager	Senior Project Manager	Project Coordinator	Project Engineer 2	Project Engineer 2	Engineer 3	Engineer 2	Engineer 2	Traffic Engineer	Sr Planner 3	Planner 2	Engineer 3	Project Engineer 3	Sr Project Administrator
					Proj Area >		Civil/Mech	Civil/Mech	Civil/Mech	Civil/Mech	Civil/Mech	Civil/Mech	Civil/Mech	Civil/Mech	Traffic	CEQA	CEQA	CEQA	CEQA	Civil/Mech
						5,028	50	149	55	449	204	1,013	1,377	1,454	170	42	26	4	11	24
Task 1 - Project Management						**120**	**42**	**50**	**28**	-	-	-	-	-	-	-	-	-	-	-
General Administration (12 months)						30		30												
Quality Control						40	40													
Kick-Off Meeting						6	2	2	2											
30%, 75% and 90% Design Review Meetings						32		6	6											
Monthly Meetings (10)						32		12	20											
Task 2 - Preliminary Design						**875**	-	**12**	-	**82**	**20**	**194**	**246**	**234**	-	**42**	**26**	**4**	**11**	**4**
Utility Research						40							20	20						
Basemap Preparation						200						40	80	80						
Site Visit						128				32		32	32	32						
Survey Services						8							4	4						
Geotechnical Investigation (25 Borings)						8							4	4						
Potholing Services (25 Potholes)						24						20		4						
30% Plan and Profile						290				20	20	70	90	90						
Preliminary Technical Memorandum						28		8		16										4
Specification List						2				2										
Phasing Plan and Isolation Valves						32		4		12			16							
Permitting						**116**	-	-	-	-	-	**32**	-	-	-	**42**	**26**	**4**	**11**	-
CEQA						99	-					16				42	26	4	11	
City of Oxnard						16	-					16								
Task 3 - Pipeline 75% Design Services						**3,312**	-	**45**	**1**	**224**	**172**	**690**	**928**	**1,070**	**170**	-	-	-	-	**12**
Plans						**3,135**	-	**31**	-	**168**	**166**	**666**	**896**	**1,038**	**170**	-	-	-	-	-
Title Sheet (1)						8	-			2			6							
General Sheets (2)						25	-		1	2	2	4	8	8						
Horizontal Control Plan (6)						50	-		2	4	4		20	20						
Plan and Profile Sheets - Hobson East (23)						692	-		8	32	32	180	220	220						
Plan and Profile Sheets - Kamala Park (54)						1,592	-		12	118	119	400	450	450						
Connection Details - Hobson East (3)						70	-		2	4	4	12	24	24						
Connection Details - Kamala Park (3)						70	-		2	4	4	12	24	24						
Fire and Water Service Connection Details (1)						28	-		2	2	2	6	8	8						
Miscellaneous Piping Details (3)						50	-		2	4	4	8	16	16						
Abandonment Details (1)						24	-			2	2	4	8	8						
Paving and Resurfacing Plans (11)						70	-			2	2	24	22	20						
Traffic Control Plans (40)						**536**	-	-	-	-	-	**16**	**90**	**240**	**170**	-	-	-	-	-
Billable						434	-					16	8	240	170					
Non-Billable						82	-						82							
Project Specifications						**72**	-	**12**	-	**48**	-	-	-	-	-	-	-	-	-	**12**
Front Ends Edits						16	-		4	8										4
Technical Specifications						56	-		8	40										8
Construction Cost Estimate and Schedule						**60**	-	**2**	-	**6**	**4**	**16**	**16**	**16**	-	-	-	-	-	-
Construction Costs (Level 4)						49	-		1	4	4	8	16	16						
Construction Schedule						11	-		1	2		8								
Submittals						**45**	-	-	**1**	**2**	**2**	**8**	**16**	**16**	-	-	-	-	-	-
75% Design Submittal						45	-		1	2	2	8	16	16						
Task 4 - Pipeline Final Design Services						**358**	-	-	-	**14**	**12**	**32**	**150**	**150**	-	-	-	-	-	-
90% Design Submittal						298				10	8	20	130	130						
Final Design Submittal						60				4	4	12	20	20						
Task 5 - Bid Phase Services						**76**	-	**4**	**2**	**25**	-	**28**	**13**	-	-	-	-	-	-	**4**
Pre-Bid Meeting						4		2	2											
Addenda (2)						54		2		24		24								4
Prepare Conformed Bid Plans						18				1		4	13							
Task 6 - Pipeline Construction Phase Services						**287**	**8**	**38**	**24**	**104**	-	**69**	**40**	-	-	-	-	-	-	**4**
Pre-Construction Conference						4			4											
Bi-weekly Project Progress Meetings (20)						20			20											
Shop Drawings (30/15)						116		16		40		60								
Request for Information (15)						40	4	12		24										
Change Order Review (5)						32	4	8		16										4
Project Punch List						18		2		16										
Record Drawings						57				8		9	40							
Totals						**5,028**	**50**	**149**	**55**	**449**	**204**	**1,013**	**1,377**	**1,454**	**170**	**42**	**26**	**4**	**11**	**24**

Price Summary / Totals

Task Pricing Totals	850,000
Specify Add'l Fees on Setup	0
Technology Use Fee	
Total Price	**850,000**

Pricing by Resource

Project Phases / Tasks	Labor Rate Esc.	Labor	Subs	Travel	Mat'ls & Equip	ODCs	Task Pricing Totals
	0.00%	643,620	190,319	5,750	-	10,311	850,000
Task 1 - Project Management		**29,480**	-	-	-	**520**	**30,000**
General Administration (12 months)		6,600					6,600
Quality Control		13,200					13,200
Kick-Off Meeting		1,430				80	1,490
30%, 75% and 90% Design Review Meetings		2,310				219	2,529
Monthly Meetings (10)		5,940				242	6,182
Task 2 - Preliminary Design		**110,480**	**190,319**	**5,750**	-	**3,451**	**310,000**
Utility Research		4,400				1,726	6,126
Basemap Preparation		22,800					22,800
Site Visit		16,480		5,750			22,230
Survey Services		880	94,185				95,065
Geotechnical Investigation (25 Borings)		880	64,170				65,050
Potholing Services (25 Potholes)		3,040	31,964				35,004
30% Plan and Profile		35,500					35,500
Preliminary Technical Memorandum		4,880					4,880
Specification List		330					330
Phasing Plan and Isolation Valves		4,620					4,620
Permitting		**16,670**	-	-	-	**1,725**	**18,395**
CEQA		14,590				1,725	16,315
City of Oxnard		2,080					2,080
Task 3 - Pipeline 75% Design Services		**405,355**	-	-	-	**4,645**	**410,000**
Plans		**380,280**	-	-	-	-	**380,280**
Title Sheet (1)		990					990
General Sheets (2)		3,160					3,160
Horizontal Control Plan (6)		6,160					6,160
Plan and Profile Sheets - Hobson East (23)		84,120					84,120
Plan and Profile Sheets - Kamala Park (54)		189,940					189,940
Connection Details - Hobson East (3)		8,680					8,680
Connection Details - Kamala Park (3)		8,680					8,680
Fire and Water Service Connection Details (1)		3,640					3,640
Miscellaneous Piping Details (3)		6,320					6,320
Abandonment Details (1)		2,940					2,940
Paving and Resurfacing Plans (11)		8,480					8,480
Traffic Control Plans (40)		**57,410**	-	-	-	-	**57,410**
Billable		57,410					57,410
Non-Billable							-
Project Specifications		**12,000**	-	-	-	-	**12,000**
Front Ends Edits		2,680					2,680
Technical Specifications		9,320					9,320
Construction Cost Estimate and Schedule		**7,690**	-	-	-	-	**7,690**
Construction Costs (Level 4)		6,100					6,100
Construction Schedule		1,590					1,590
Submittals		**5,385**	-	-	-	**4,645**	**10,030**
75% Design Submittal		5,385				4,645	10,030
Task 4 - Pipeline Final Design Services		**41,450**	-	-	-	**550**	**42,000**
90% Design Submittal		34,170				274	34,444
Final Design Submittal		7,280				276	7,556
Task 5 - Bid Phase Services		**10,885**	-	-	-	**115**	**11,000**
Pre-Bid Meeting		770				115	885
Addenda (2)		8,000					8,000
Prepare Conformed Bid Plans		2,115					2,115
Task 6 - Pipeline Construction Phase Services		**45,970**	-	-	-	**1,030**	**47,000**
Pre-Construction Conference		660				110	770
Bi-weekly Project Progress Meetings (20)		8,300					8,300
Shop Drawings (30/15)		17,920					17,920
Request for Information (15)		7,920					7,920
Change Order Review (5)		6,200					6,200
Project Punch List		3,080					3,080
Record Drawings		6,890				920	7,810
Totals	0.00%	**643,620**	**190,319**	**5,750**	-	**10,311**	**850,000**

TETRA TECH

Exhibit A
2022/2023
HOURLY CHARGE RATE AND EXPENSE REIMBURSEMENT SCHEDULE

Project Management	
Project Manager 1	$220.00
Project Manager 2	$260.00
Sr Project Manager	$305.00
Program Manager	$330.00
Principal in Charge	$330.00
Engineers	
Engineering Technician	$65.00
Engineer 1	$96.00
Engineer 2	$115.00
Engineer 3	$130.00
Project Engineer 1	$150.00
Project Coordinator	$165.00
Project Engineer 2	$165.00
Sr Engineer 1	$170.00
Sr Engineer 2	$185.00
Sr Engineer 3	$210.00
Principal Engineer	$300.00
Planners	
Planner 1	$104.00
Planner 2	$115.00
Sr Planner 1	$125.00
Sr Planner 2	$151.00
Sr Planner 3	$175.00
Designers & Technicians	
CAD Technician 1	$65.00
CAD Technician 2	$75.00
CAD Technician 3	$90.00
CAD Designer	$105.00
Sr CAD Designer 1	$125.00
Sr CAD Designer 2	$150.00
CAD Director	$155.00
Survey Tech 1	$50.00
Health & Safety	
H&S Administrator	$95.00
Sr H&S Administrator	$115.00
H&S Manager	$145.00

Construction	
Construction Project Rep 1	$80.00
Construction Project Rep 2	$90.00
Sr Constr Project Rep 1	$110.00
Sr Constr Project Rep 2	$120.00
Construction Manager 1	$170.00
Construction Manager 2	$190.00
Construction Director	$235.00
General & Administrative	
Project Assistant 1	$67.00
Project Assistant 2	$75.00
Project Administrator	$95.00
Sr Project Administrator	$120.00
Graphic Artist	$130.00
Technical Writer 1	$97.00
Technical Writer 2	$124.00
Sr Technical Writer	$155.00
Information Technology	
Systems Analyst / Programmer 1	$77.00
Systems Analyst / Programmer 2	$115.00
Sr Sys Analyst / Programmer 1	$130.00
Sr Systems Analyst / Programmer 2	$196.00
Project Accounting	
Project Analyst 1	$90.00
Project Analyst 2	$114.00
Sr Project Analyst	$155.00
Reimbursable In-House Costs:	
Photo Copies (B&W 8.5"x11")	$ 0.15/Each
Photo Copies (B&W 11"x17")	$ 0.40/Each
Color Copies (up to 8.5"x11")	$ 2.00/Each
Color Copies (to 11"x17")	$ 3.00/Each
Compact Discs	$10/each
Large format copies	$0.40 S.F.
Mileage-Company Vehicle	$0.80/mile
Mileage-POV	$0.55/mile*

*current GSA POV mileage rate subject to change

All other direct costs, such as production, special photography, postage, delivery services, overnight mail, printing and any other services performed by subcontractor will be billed at cost plus 15%.

Insurance Exhibit (INS-A)

INSURANCE REQUIREMENTS FOR CONSULTANTS
(WITH ERRORS AND OMISSIONS REQUIREMENT)

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

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

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

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

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

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

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

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

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

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

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

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

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

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

Endorsement Forms

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

INS-A.doc

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER

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

CODE SUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY LETTER A SPECIFY COMPANY NAMES IN THIS SPACE

COMPANY LETTER B

COVERAGES

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

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

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

CERTIFICATE HOLDER

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

CANCELLATION

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

AUTHORIZED REPRESENTATIVE

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

SUBMIT IN DUPLICATE

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

PRODUCER

Telephone:

NAMED INSURED

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

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

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

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

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

OTHER PROVISIONS

COVERAGES

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

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

Name: _____
Address: _____
_____
Telephone: (____) _____

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

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

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

ENDORSEMENT HOLDER

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

AUTHORIZED REPRESENTATIVE

❒ Broker/Agent ❒ Underwriter ❒ _____

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

Signature _____
(original signature required)
Telephone: (____) _____ Date Signed: _____

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

SUBMIT IN DUPLICATE

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

PRODUCER

Telephone:

NAMED INSURED

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

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

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

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

❒ COMMERCIAL AUTO POLICY
❒ BUSINESS AUTO POLICY
❒ OTHER

OTHER PROVISIONS

LIMIT OF LIABILITY

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

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

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

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

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

ENDORSEMENT HOLDER

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

AUTHORIZED REPRESENTATIVE

❒ Broker/Agent ❒ Underwriter ❒ _____

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

Signature _____
(original signature required)

Telephone: ( ) Date Signed _____

PREVAILING WAGE EXHIBIT

1. The Project defined in the Agreement between City and Contractor is a "public work" as defined in Division 2, Part 7, Chapter 1 of the California Labor Code ("Chapter 1"), and this Agreement is subject to Chapter 1 and the rules and regulations established by the Director of Industrial Relations ("DIR") implementing such statutes. Contractor shall perform the Project as a public work. Contractor shall comply with and be bound by all the terms, rules and regulations described in Chapter 1 and the DIR's rules and regulations as though set forth in full herein.
2. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file with the Project Coordinator at City Hall and will be made available to any interested party on request. They are also available at http://www.dir.ca.gov/Public-Works/Prevailing-Wage.html. Contractor shall post such rates at each job site covered by this Agreement.
3. Contractor is required to post job site notices, as prescribed by regulation. *See* Labor Code Section 1771.4(a)(2).
4. Contractor shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. Contractor shall, as a penalty to City, forfeit not more than $200 for each calendar day or portion thereof for each worker paid less than the DIR's determined prevailing rates for the work or craft in which the worker is employed pursuant to this Agreement by Contractor or any subcontractor. The Labor Commissioner shall determine the amount of the penalty as described in Section 1775.
5. Contractor shall comply with Labor Code Section 1776, which requires Contractor and each subcontractor to (1) keep accurate payroll records and verify such records in writing under penalty of perjury, (2) certify and make such payroll records available for inspection, and (3) inform City of the location of the records.
6. Contractor shall comply with Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code Title 8, Section 200 *et seq.* concerning the employment of apprentices on public works projects. Contractor shall be responsible for compliance with these aforementioned Sections for all apprenticeable occupations. Before commencing work under this Agreement, Contractor shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within 60 days of the Agreement Ending Date listed in (6) of the Cover Page or the conclusion of the Project, whichever happens later, Contractor and each of its subcontractors shall submit to City a verified statement of the journeyman and apprentice hours performed under this Agreement.
7. Contractor shall not be debarred or suspended throughout the duration of this Agreement pursuant to Labor Code Section 1777.1 or 1777.7. If Contractor becomes debarred or suspended throughout the duration of the Agreement, Contractor shall immediately notify City.
8. Contractor is not qualified to bid on, be listed in a Bid, or engage in the performance of any contract for public work, as defined in LC Sections 1720 through 1861, unless currently registered and qualified to perform public work pursuant to LC Section 1725.5. Contractor shall continue without interruption to stay registered and qualified to perform public work pursuant to Section 1725.5 for the duration of the Agreement's term. This provision does not apply to construction, alteration, demolition, installation or repair work of $25,000 or less or to maintenance work of $15,000 or less.
9. Contractor acknowledges that 8 hours labor constitutes a legal day's work. Contractor shall comply with and be bound by Labor Code Section 1810.
10. Contractor shall comply with and be bound by Labor Code Section 1813 concerning penalties for workers who work excess hours. Contractor shall, as a penalty to City, forfeit $25 for each worker employed in the performance of this Agreement by Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than 8 hours in any calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code Section 1815, work performed by Contractor's employees in excess of 8 hours per day and 40 hours per week shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1½ times the basic rate of pay.
11. The Project listed in the Agreement is subject to compliance monitoring and enforcement by the DIR.
12. Contractor shall be responsible for each and every one of its subcontractors' compliance with Chapter

1, the DIR's rules and regulations, and Labor Code Sections 1860 and 3700. Contractor shall include in the written contract between it and each subcontractor a copy of, and a requirement that each subcontractor shall comply with, those statutory provisions. Contractor shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractors' compliance, including without limitation, conducting a periodic review of the certified payroll records of each subcontractor, and upon becoming aware of the failure of the subcontractor to pay its workers the specified prevailing rate of wages, Contractor shall diligently take corrective action to halt or rectify any failure.

13. To the maximum extent, Contractor shall hold harmless, defend (with counsel approved by the City Attorney) and indemnify City, its legislative bodies, and its officials, officers, employees, agents, successors and assigns from any demand or claim for damages, compensation, fines, penalties or other amounts arising out of or incidental to any acts or omissions listed above by any person or entity (including Contractor, its subcontractors, and each of their officials, officers, employees and agents) in connection with any work undertaken or in connection with the Agreement, including without limitation the payment of all attorneys' fees and other related costs. All duties of Contractor under this Section shall survive Agreement termination.

Agreement No. A-8491

FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT

This First Amendment ("First Amendment") to the Professional Services Agreement ("Agreement") is made and entered into in the County of Ventura, State of California, this 5th day of September, 2023, by and between the City of Oxnard, a municipal corporation ("City"), and Tetra Tech, Inc. ("Consultant"). This First Amendment amends the Agreement entered into on October 4, 2022, by City and Consultant.

City and Consultant agree as follows:

1. In Section 6 of the Cover Page of the Agreement, the Total Agreement Amount is hereby amended to state: "$947,000."

2. All references to the Scope of Work Exhibit everywhere it is listed both on the Cover Page and in the Agreement is hereby amended to the Scope of Work Exhibit – July 2023. The Scope of Work Exhibit is hereby disincorporated; instead, the Scope of Work Exhibit- July 2023 is attached hereto and incorporated herein by this reference.

3. All reference to the Rates and Cost Exhibit everywhere it is listed both on the Cover Page and in the Agreement is hereby amended to the Rates and Cost – July 2023. The the Rates and Cost Exhibit is hereby disincorporated; instead, the Rates and Cost - July 2023 is attached hereto and incorporated herein by this reference.

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

[Signatures on next page]

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

CITY OF OXNARD

_____ _____

☒John C. Zaragoza, Mayor[1] Date

☐Jennifer Yates, Purchasing Agent [2]

ATTEST:

_____ _____

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

APPROVED AS TO FORM:

_____ _____

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

TETRA TECH, INC.

_____ 7/18/2023

Richard A. Lemmon, Sr. Vice President Date

_____ 7/18/2023

Preston Hopson, Secretary [3] Date

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

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

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

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

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

SCOPE OF SERVICES EXHIBIT – JULY 2023

Consultant to perform engineering design services for the replacement of approximately 60,150 LF of existing cast iron pipe water distribution mains (ranging from 8" to 12" in diameter) including associated valves, fire hydrants and other appurtenances.

The project shall also include resurfacing/paving of streets for long sections where pipe is to be replaced.

Task 1: Program Management

1. Project Management. Consultant shall coordinate all efforts of the Project Team including representatives from the City of Oxnard's Public Works Department and Water Division (City). The Consultant shall facilitate regular Project progress meetings and provide monthly written updates on the Project status and budget.
2. Project Kick-off Meeting. At the commencement of the Project, the Consultant shall facilitate a "kick-off" meeting with the City's engineering and operations staff to discuss the scope and parameters of the Project. The Consultant shall prepare and distribute a draft agenda in advance of the meeting for review and comment by the City.
3. Progress Meetings. Consultant shall attend monthly meetings at the City for the duration of the project. As part of the effort, the Consultant is responsible for developing meeting information and an agenda prior to the meeting and meeting minutes within three business days following the meeting with complete action tracking log.
4. Project Schedule. Consultant shall develop a project schedule at the beginning of the project that covers preliminary design, recommendations, design drawings, specifications, construction cost estimate, bid documents, and bid/award support services. Project schedule shall be submitted with the proposal and shall be updated within 2 weeks of the kickoff meeting.
5. Project Communication. Consultant shall develop a communications protocol to be followed by all team members to be submitted within one week of starting the project. Communication protocol will include standard project communication as well as emergency communication protocols.

6. Project Coordination. Consultant shall coordinate all of the services of sub-consultants including site visits and site inspections, and shall ensure coordination with the City operations and engineering staff and other interested parties as outlined by the City.

7. Quality Assurance and Quality Control (QA/QC). The Consultant shall develop a QA/QC plan, to be followed for all submittals, within two weeks of starting the project. The plan shall include the staff who are responsible for reviewing design and documentation as well as the means for integrating review comments from the City.
8. Monthly Invoicing. The Consultant shall submit invoices on a monthly basis with all supporting documentation in a format acceptable to the City. Invoices requiring amendment shall be dated according to when the revised invoice is delivered to the City. Invoices shall be delivered electronically to the Project Manager and to PWInvoices@Oxnard.org.

Task 2: Preliminary Design

The consultant shall conduct land survey work as necessary to adequately complete the design, file permit applications, and provide reference points for construction layouts. As a minimum, property lines, right-of-ways, easements, topographic information, location of existing landmarks (e.g. edge of road, sidewalks, buildings, trees, valves, meter boxes, etc.) and underground utility locations are to be included. The engineer shall coordinate with the City and other utility owners to obtain underground utility information prior to the survey. If deemed necessary, the consultant shall conduct subsurface utility engineering locates to determine the location of important underground facilities.

The Consultant shall determine which permits are required for the project, including CEQA documentation, prepare and submit the necessary applications, and provide technical input as required in securing these permits. The consultant shall also provide the City with information regarding the approximate length of review time for each permit, and any special requirements that could delay this process.

The Consultant shall develop a project phasing plan to ensure utility service is maintained throughout the course of the construction project and construction impacts are minimized.

1. Site Survey: The Consultant shall include an allowance in its proposal to perform topographic and/or aerial surveys along the pipelines to be replaced. Aerial photography shall be at a minimum of 1-foot intervals to be used on a 1" = 40' scale plan and profile drawings. Survey information shall include, at a minimum, elevations, northings and eastings of existing street infrastructure and all appurtenances (i.e. sidewalks, curb and gutter, utility boxes, catch basins, utility covers, manholes, fences, driveways, medians, trees, vegetation, etc.). A benchmark and line of bearing shall be established and shall be tied to existing survey control. Electronic CAD files (.DWF) of each topographic survey shall be transmitted to the City and provided as a base map for the project.
2. Geotechnical Borings: The Consultant shall engage a geotechnical service firm to take 25 bore log samples to a minimum depth of six feet and determine the characteristics of the formation. A geotechnical analysis shall be completed by the Consultant and include the determination of needing imported backfill material and removal of unsuitable soil.
3. Potholing: The Consultant shall include an allowance in its proposal to perform exploratory excavations (i.e. "potholing") at 66 locations, at a minimum depth of 6 feet.
4. Preliminary Drawings: Develop plan and profile drawings equivalent to the 30-percent design level.
5. List of Specification: The preliminary design submittal shall include a list of anticipated technical specifications for all aspects of the facilities construction.

Deliverable

The Consultant shall submit the preliminary design electronically in the appropriate format (dwg & pdf).

Task 3: Pipeline 75% Design Services

The Consultant shall create a design, equivalent to the 75-percent design level, including various components such as design criteria, plan and profile drawings, connection details and cross sections. The Consultant shall produce the following 75% design deliverables:

1. General/Civil Design:
    a. Title Sheet
    b. Vicinity and location maps with contacts
    c. Drawing index, general notes, symbols, abbreviations, and legends
    d. Referenced Standards and Specifications

2. Pipeline Design:

a. Plan and Profile Drawings: The Consultant shall prepare plan and profiles drawings to the 75% design level.

b. Pipeline and Utility Key Map.

c. Details: Consultant shall design connection details.

d. Backfill: Consultant shall provide design mix for all backfill material per the geotechnical report.

e. Temporary Water Service: Consultant shall provide plans and details maintaining water service for alignments requiring the existing water main to be replaced in place.

3. Paving and Resurfacing:

a. Develop trenching, backfill, paving and resurfacing drawings.

b. Striping plan

c. Provide a standard design pavement section that adheres to the City Standards. The design shall consider and include limits of replacement.

4. Traffic Control:

a. Stipulate traffic control requirements per the City of standards and permitting requirements. Include requirements as a line item on the bid documents for the Contractor to complete.

5. Specifications:

a. Preliminary technical specification with draft text in all sections.

6. Prepare Preliminary Construction Cost Estimate:

a. Consultant shall prepare a preliminary construction estimate (Level 4 standard per the Association of Construction Cost Estimators) based on the PDR. This initial cost estimate will be updated throughout the final design process. Cost estimates shall include operating costs.

Deliverable

The Consultant shall provide the 75% design package containing drawings and specifications electronically and four (4) sets of 22”x34” (D Size) drawings.

Task 5: Pipeline Final Design Services

Consultant shall provide final design services that include full preparation of drawings, specifications, general and special provisions. The Consultant shall incorporate the review

comments from the preliminary design phase into the 100% design package with the intermediate 90% submittal. The 100% design package shall include all bid documents, front-end documents, technical specifications, and drawings suitable for public bid. Subtasks include:

1. 90% Design Submittal: Drawings and specifications from the preliminary design phase shall be modified to account for any remaining design changes as a result of the preliminary (75%) design review. At the end of the 90 percent design phase, drawings and specifications shall be complete. The following tasks are to be completed:

a. Civil drawings and details

b. Pipeline drawings and details

c. Paving and trench repair plans

d. Traffic control drawings (as required)

e. Specifications

f. Construction cost estimate

g. Construction schedule

Deliverable

The Consultant shall provide the 90% design package (electronically).

2. Final Design Submittal: During the final design phase, minor comments from the 90 percent design submittal shall be incorporated into the drawings and specifications. This final submittal will not be reviewed by the City and will be considered the bid set. Tasks include:

a. Production of final engineering drawings

b. Production of final engineering specifications

c. The Consultant shall prepare a probable construction cost estimate to be transmitted along with the final 100% design package.

d. The Consultant shall divide the project into three (3) separate construction bid packages consisting of the following:

- Hobson Cast Iron Pipe Replacement Project (approximately 15,000 LF)
- Kamala Cast Iron Pipe Replacement Project West Phase (approximately 19,000 LF)

- Kamala Cast Iron Pipe Replacement Project East Phase (approximately 21,000 LF)

Deliverable

The Consultant shall provide the final design package (electronically). All drawings shall be prepared using AutoCAD 2018 or later.

Price Proposal

Hobson and Kamala Cast Iron Pipe Replacement Project

Pipeline Replacement Project - Amendment No. 1

Submitted to: City of Oxnard (Attn: Jorge Espinoza, Project Manager)

Contract Type: T&M

Labor Plan — 14 Resource

Project Phases / Tasks	Total Labor Hrs	Civil/Mech	Program Manager	Senior Project Manager	Project Coordinator	Project Engineer 2	Project Engineer 2	Engineer 3	Engineer 2	Engineer 2	Traffic Engineer	Sr Planner 3	Planner 2	Engineer 3	Project Engineer 1	Sr Project Administrator
		Civil/Mech	Civil/Mech	Civil/Mech	Civil/Mech	Civil/Mech	Civil/Mech	Civil/Mech	Civil/Mech	Civil/Mech	Traffic	CEQA	CEQA	CEQA		Civil/Mech
Project Phases / Tasks	**5,024**		44	124	29	392	204	916	1,550	1,496	170	42	26	4	11	16
Task 1 - Project Management	**120**		**42**	**50**	**28**											
General Administration (12 months)	30			30												
Quality Control	40		40													
Kick-Off Meeting	6		2	2	2											
30%, 75% and 90% Design Review Meetings	12			6	6											
Monthly Meetings (10)	32			12	20											
Task 2 - Preliminary Design	**935**			**12**		**102**	**20**	**194**	**278**	**242**		**42**	**26**	**4**	**11**	**4**
Utility Research	40								20	20						
Basemap Preparation	200							40	80	80						
Site Visit	128					32		32	32	32						
Survey Services	8								4	4						
Geotechnical Investigation (25 Borings)	8								4	4						
AMENDMENT 1 - Revised City Requirements	6					2			4							
Potholing Services (25 Potholes)	24							20		4						
AMENDMENT 1 - 25 Potholes Revised City Requirements	6					2			4							
AMENDMENT 1 - Additional 41 Potholes	48					16			24	8						
30% Plan and Profile	290					20	20	70	90	90						
Preliminary Technical Memorandum	28			8		16										4
Specification List	2					2										
Phasing Plan and Isolation Valves	32			4		12			16							
Permitting	**115**							**32**				**42**	**26**	**4**	**11**	
CEQA	99							16				42	26	4	11	
City of Oxnard	16							16								
Task 3 - Pipeline 75% Design Services	**3,519**			**54**	**1**	**260**	**172**	**690**	**1,072**	**1,088**	**170**					**12**
Plans	**3,342**			**40**		**204**	**166**	**666**	**1,040**	**1,056**	**170**					
Title Sheet (1)	8					2			6							
General Sheets (2)	25			1		2	2	4	8	8						
Horizontal Control Plan (6)	50			2		4	4		20	20						
Plan and Profile Sheets - Hobson East (23)	692			8		32	32	180	220	220						
Plan and Profile Sheets - Kamala Park (54)	1,532			12		110	110	400	450	450						
Connection Details - Hobson East (3)	70			2		4	4	12	24	24						
Connection Details - Kamala Park (3)	70			2		4	4	12	24	24						
Fire and Water Service Connection Details (1)	28			2		2	2	6	8	8						
Miscellaneous Piping Details (3)	50			2		4	4	8	16	16						
Abandonment Details (1)	24					2	2	4	8	8						
Paving and Resurfacing Plans (11)	70					2	2	24	22	20						
AMENDMENT 1 - Temporary Water Service Plans and Details (9)	207			9		36			144	18						
Traffic Control Plans (40)	**516**							**16**	**90**	**240**	**170**					
Billable	434							16	8	240	170					
Non-Billable	82								82							
Project Specifications	**72**			**12**		**48**										**12**
Front Ends Edits	16			4		8										4
Technical Specifications	56			8		40										8
Construction Cost Estimate and Schedule	**60**			**2**		**6**	**4**	**16**	**16**	**16**						
Construction Costs (Level 4)	49			1		4	4	8	16	16						
Construction Schedule	11			1		2		8								
Submittals	**45**				**1**	**2**	**2**	**8**	**16**	**16**						
75% Design Submittal	45				1	2	2	8	16	16						
Task 4 - Pipeline Final Design Services	**450**		**2**	**8**		**30**	**12**	**32**	**200**	**166**						
90% Design Submittal	298					10	8	20	130	130						
Final Design Submittal	60					4	4	12	20	20						
AMENDMENT 1 - Revised City Requirements	92		2	8		16			50	16						
Task 5 - Bid Phase Services (AMENDMENT 1 - Removed From Scope)	-															
Task 6 - Pipeline Construction Phase Services (AMENDMENT 1 - Removed From Scope)	-															
Totals	**5,024**		**44**	**124**	**29**	**392**	**204**	**916**	**1,550**	**1,496**	**170**	**42**	**26**	**4**	**11**	**16**

Price Summary / Totals

Task Pricing Totals	947,000
Specify Add'l Fees on Setup	0
Technology Use Fee	
Total Price	**947,000**

Pricing by Resource

Project Phases / Tasks	Labor Rate Esc.	Labor	Subs	Travel	ODCs	Task Pricing Totals
Project Phases / Tasks	**0.00%**	**632,525**	**299,817**	**5,752**	**8,906**	**947,000**
Task 1 - Project Management		**29,480**			**520**	**30,000**
General Administration (12 months)		6,600				6,600
Quality Control		13,200				13,200
Kick-Off Meeting		1,430			60	1,490
30%, 75% and 90% Design Review Meetings		2,310			219	2,529
Monthly Meetings (10)		5,940			242	6,182
Task 2 - Preliminary Design		**118,180**	**299,817**	**5,752**	**3,451**	**427,200**
Utility Research		4,400			1,726	6,126
Basemap Preparation		22,800				22,800
Site Visit		16,480		5,750		22,230
Survey Services		880	94,185			95,065
Geotechnical Investigation (25 Borings)		880	64,170			65,050
AMENDMENT 1 - Revised City Requirements		770	19,320			20,090
Potholing Services (25 Potholes)		3,040	31,964			35,004
AMENDMENT 1 - 25 Potholes Revised City Requirements		770	14,904			15,674
AMENDMENT 1 - Additional 41 Potholes		6,160	75,273	2		81,436
30% Plan and Profile		35,500				35,500
Preliminary Technical Memorandum		4,880				4,880
Specification List		330				330
Phasing Plan and Isolation Valves		4,620				4,620
Permitting		**16,670**			**1,725**	**18,395**
CEQA		14,590			1,725	16,315
City of Oxnard		2,080				2,080
Task 3 - Pipeline 75% Design Services		**431,095**			**4,705**	**435,800**
Plans		**406,020**			**60**	**406,080**
Title Sheet (1)		990				990
General Sheets (2)		3,160				3,160
Horizontal Control Plan (6)		6,160				6,160
Plan and Profile Sheets - Hobson East (23)		84,120				84,120
Plan and Profile Sheets - Kamala Park (54)		189,940				189,940
Connection Details - Hobson East (3)		8,600				8,600
Connection Details - Kamala Park (3)		8,600				8,600
Fire and Water Service Connection Details (1)		3,640				3,640
Miscellaneous Piping Details (3)		6,320				6,320
Abandonment Details (1)		2,940				2,940
Paving and Resurfacing Plans (11)		8,400				8,400
AMENDMENT 1 - Temporary Water Service Plans and Details (9)		25,740			60	25,800
Traffic Control Plans (40)		**57,410**				**57,410**
Billable		57,410				57,410
Non-Billable						-
Project Specifications		**12,000**				**12,000**
Front Ends Edits		2,680				2,680
Technical Specifications		9,320				9,320
Construction Cost Estimate and Schedule		**7,690**				**7,690**
Construction Costs (Level 4)		6,100				6,100
Construction Schedule		1,590				1,590
Submittals		**5,385**			**4,645**	**10,030**
75% Design Submittal		5,385			4,645	10,030
Task 4 - Pipeline Final Design Services		**53,770**			**230**	**54,000**
90% Design Submittal		34,170			230	34,400
Final Design Submittal		7,280				7,280
AMENDMENT 1 - Revised City Requirements		12,320				12,320
Task 5 - Bid Phase Services (AMENDMENT 1 - Removed From Scope)						
Task 6 - Pipeline Construction Phase Services (AMENDMENT 1 - Removed From Scope)						
Totals	**0.00%**	**632,525**	**299,817**	**5,752**	**8,906**	**947,000**

CITY COUNCIL AGENDA REPORT

PUBLIC HEARINGS
AGENDA ITEM NO. M.1

DATE: September 5, 2023

TO: City Council

FROM: Ashley Golden, Assistant City Manager, (805) 385-7478, ashley.golden@oxnard.org

SUBJECT: Resolution Declaring Results of Majority Protest Proceedings, adoption of Resolution and Second Reading and Adoption of the Ordinance to Renew the Oxnard Tourism Marketing District. (10 minutes)

RECOMMENDATION

That the City Council:

1. Hold a final public hearing, declare results of the majority protest proceeding, and adopt a resolution renewing the Oxnard Tourism Marketing District; and
2. Adopt Ordinance No. 3030 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.

(This item did not originate in Committee. Related items were heard at the June 29, 2023 and July 18, 2023 Council meetings.)

Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/cWPvn-Em9Qg

BACKGROUND

The Oxnard Tourism Marketing District (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 & Visitors Bureau dba Visit Oxnard (VO), 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 OTDM 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 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. On July 18, 2023 the City Council conducted a Public Meeting and approved the first reading of an ordinance to renew the OTMD.

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 on 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 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.

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 **(COMPLETED)**

Allow public testimony on the renewal of the OTMD and levy of assessments. At the public meeting, the Council introduced the Ordinance renewing the OTMD, and levying the assessment.

Sept. 5, 2023 FINAL PUBLIC HEARING AND ADOPTION OF THE RESOLUTION AND ORDINANCE **(CURRENT STEP)**

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 a resolution and an ordinance renewing the OTMD and levying the assessment. Upon successful adoption of the resolution and 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 the Economic Development Strategy. The purpose of the 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. The City Council authorized this OTMD in 2019, and this extension does not substantially change the OTMD. Additionally, the matter of the OTMD was heard at the June 29, 2023 and July 18, 2023 Council meetings.

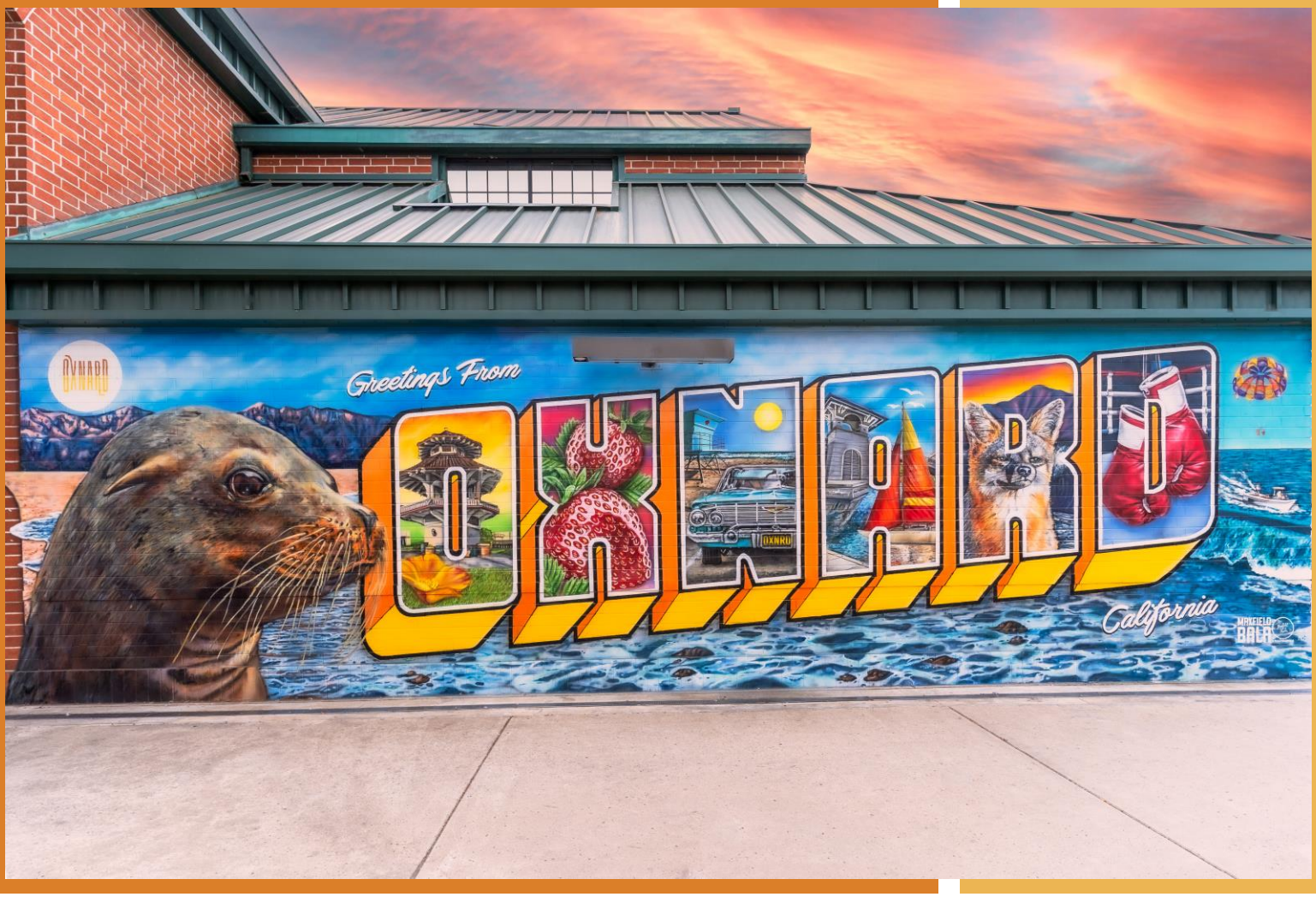
Prepared by: Ashley Golden, Assistant City Manager

ATTACHMENTS

1. Management District Plan
2. Resolution of Intent
3. Resolution of Formation Renewing the OTMD

4. Ordinance Renewing the OTMD and Levying the Assessments
5. Presentation

2024-2033



OXNARD TOURISM MARKETING DISTRICT

MANAGEMENT DISTRICT PLAN

Prepared pursuant to the Property and Business Improvement District Law of 1994, Streets and Highways Code section 36600 et seq.

June 8, 2023

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Prepared by
Civitas

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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

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implementing programs in accordance with this Plan, and must provide annual reports to the City Council.

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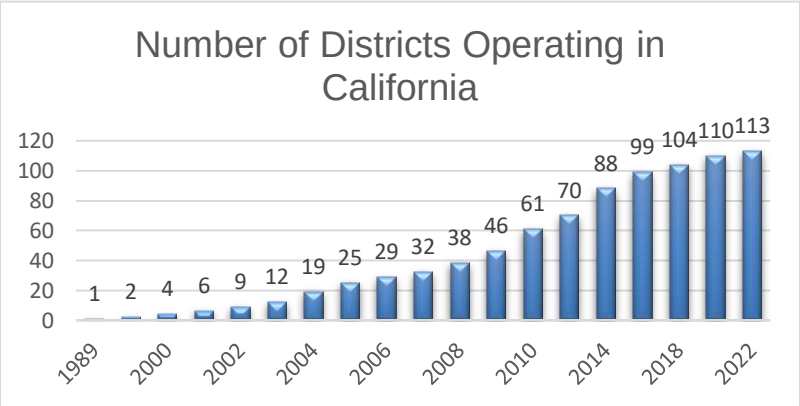
II. BACKGROUND

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.

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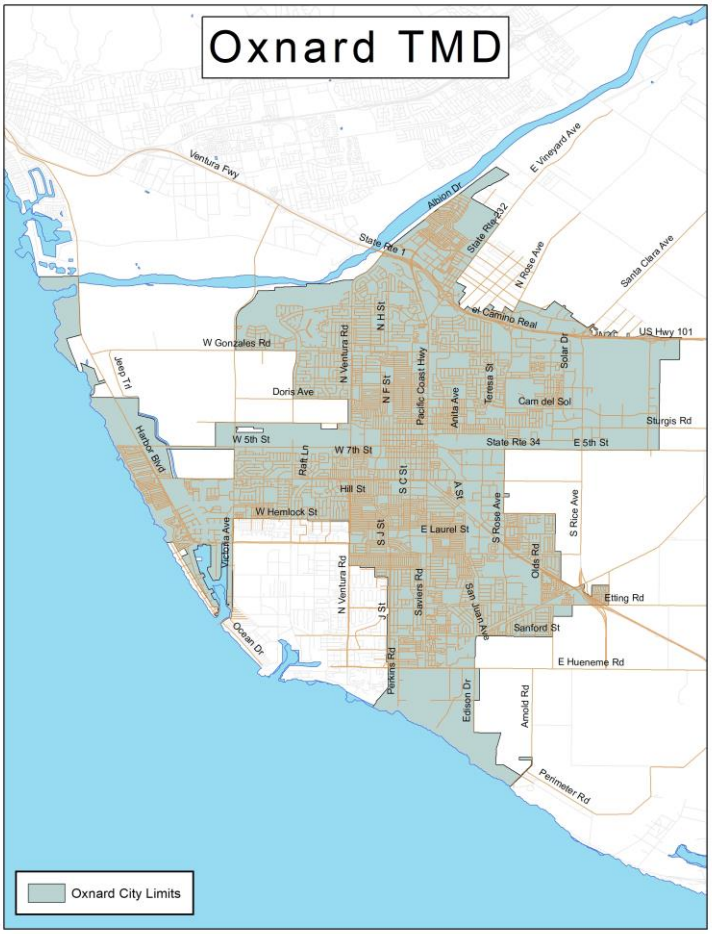
III. BOUNDARY

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.

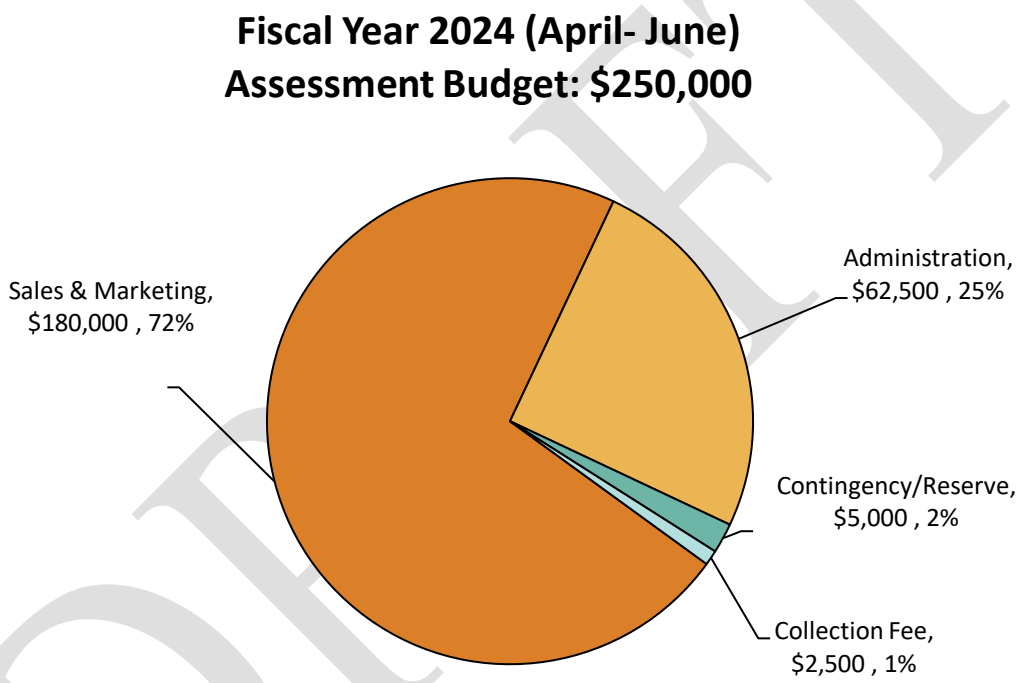


IV. ASSESSMENT BUDGET AND SERVICES

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.

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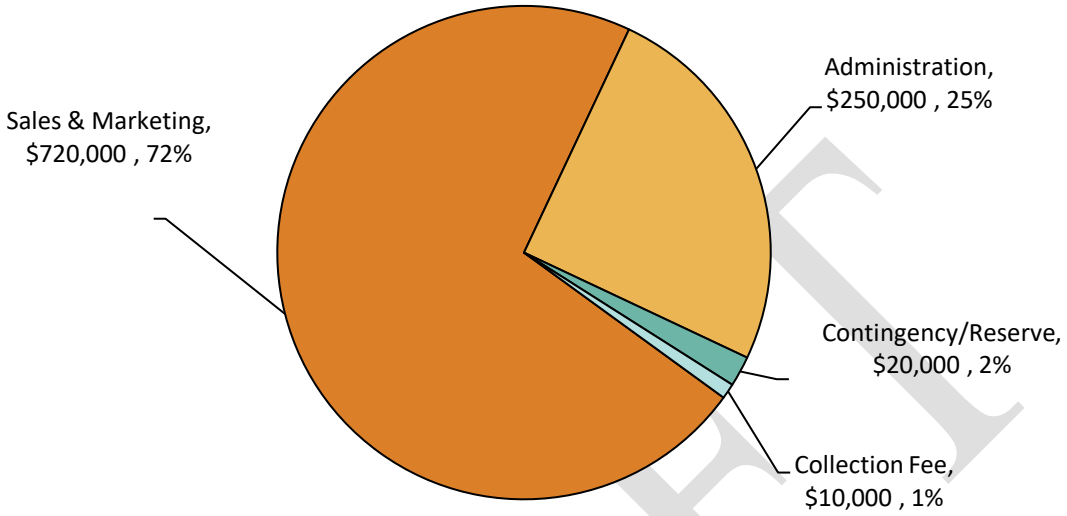
Fiscal Year 2024/2025 (July-June)
Assessment Budget: $1,000,000



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;

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- 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.

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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]

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[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 26[5]. 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 assesse 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.

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[4] Cal. Const. art XIII C § 1(e)(2)
[5] Government Code § 53758(b)
[6] Government Code § 53758(b)

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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.

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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.

<u>36620.5.</u> 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.

<u>36621.</u> 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.

<u>36622.</u> 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.

<u>36623.</u> 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 assessees 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

DRAFT

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

John C. Zaragoza, Mayor

ATTEST:

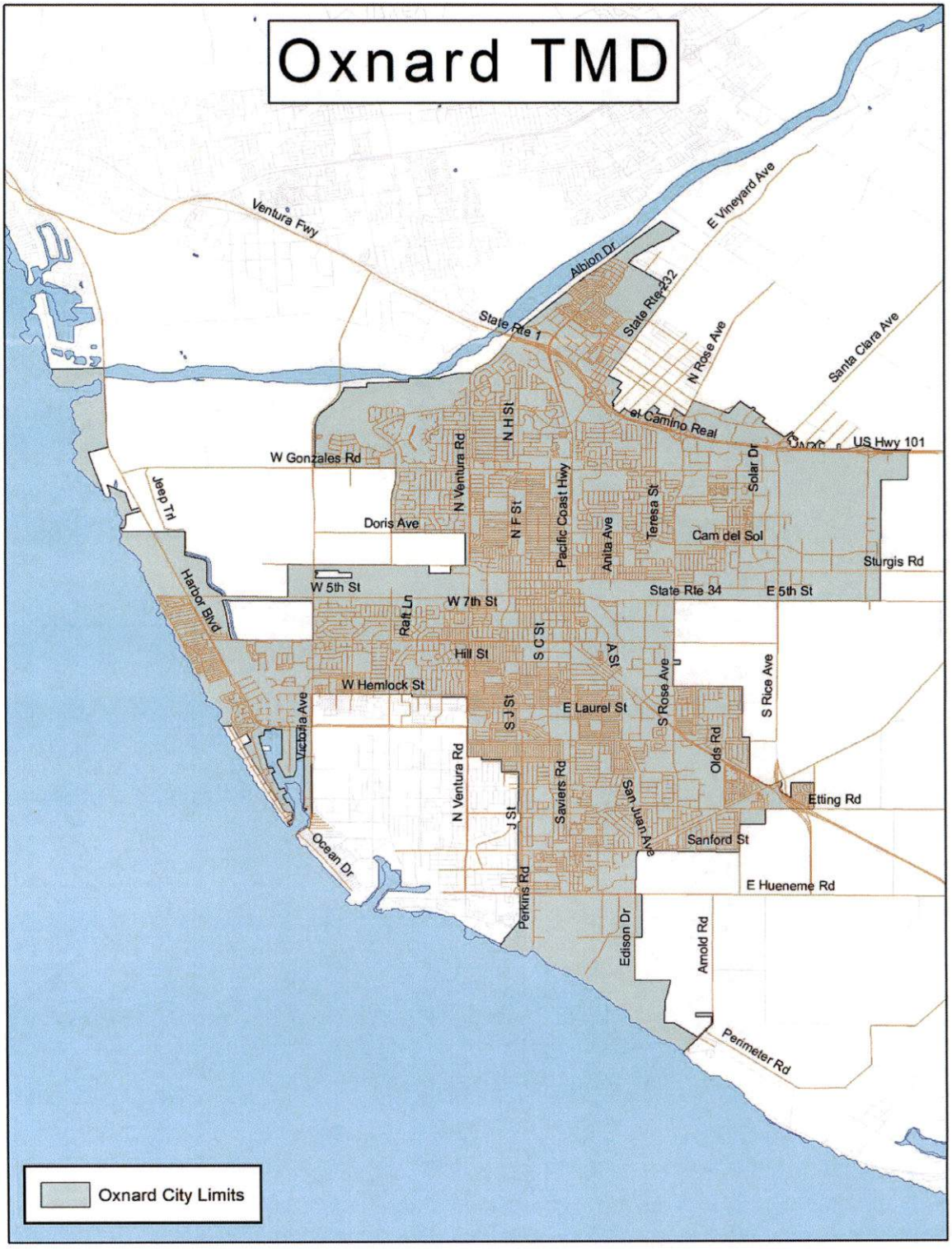
R. Chaparro 7/5/23

Rose Chaparro, City Clerk

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney

EXHIBIT A
District Boundaries



RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE OXNARD OF OXNARD DECLARING RESULTS OF MAJORITY PROTEST PROCEEDINGS AND RENEWING THE OXNARD TOURISM MARKETING DISTRICT (OTMD)

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 District Law of 1994 (Streets and Highways Code §36600 et. seq.) authorizes the Oxnard to renew business improvement districts upon petition by a weighted majority of the business owners located within the boundaries of the district; and

WHEREAS, lodging business owners who will pay more than fifty percent (50%) of the proposed assessment, as weighted according to the amount of the assessment to be paid by the petitioner, within the boundaries of the OTMD have petitioned the City 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 existing and in future within the OTMD 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 305 West Third Street, Oxnard, CA 93030, the City 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 §36623; and

WHEREAS, on July 18, 2023 at 6:00 PM at 305 West Third Street, Oxnard, CA 93030, the City Council held a public meeting and introduced and conducted a first reading of the Ordinance regarding the renewal of the OTMD and the levy of the proposed assessment, and the City Council heard and received objections and protests, if any, to the renewal of the OTMD and the levy of the proposed assessment; and

WHEREAS, on September 5, 2023 at 6:00 PM at 305 West Third Street, Oxnard, CA 93030, the City Council held a public hearing regarding the renewal of the OTMD, and the City

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, the City Clerk has determined that there was no majority protest. A majority protest is defined as written protests received from owners of businesses in the renewed OTMD which would pay fifty percent (50%) or more of the assessments proposed to be levied. Protests are weighted based on the assessment proposed to be levied on each lodging business; and

WHEREAS, following the 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 adopted the Ordinance to renew the OTMD and to continue the levy of assessments.

WHEREAS, Adoption of this Resolution does not diminish the legal effect of the adoption of the Ordinance adopted at the final hearing; and

WHEREAS, the City bears the burden of proving by a preponderance of the evidence that an assessment imposed for a specific benefit or specific government service is not a tax, that the amount is no more than necessary to cover the costs to the City in providing the specific benefit or specific government service, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the specific benefits or specific government services received by the payor.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL THAT:

1. The recitals set forth herein are adopted by the City Council as findings and they are true and correct.

2. The OTMD is hereby renewed for a nine (9) years and three (3) months year term, beginning April 1, 2024 or as soon as possible thereafter, and ending on June 30, 2033

3. The Plan dated June 8, 2023 is hereby adopted and approved.

4. The activities to be provided to benefit lodging businesses in the OTMD will be funded by the levy of the assessment. The revenue from the assessment levy shall not be used: to provide activities that directly benefit businesses outside the OTMD; to provide activities or improvements outside the OTMD; or for any purpose other than the purposes specified in this Resolution, the Resolution of Intention, the Ordinance, and the Plan. Notwithstanding the foregoing, improvements and activities that must be provided outside the OTMD boundaries to create a specific benefit to the assessed businesses may be provided, but shall be limited to marketing or signage pointing to the OTMD.

5. The City Council finds as follows:

a) 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.

b) 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.

c) 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.

d) 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, that portion shall be specifically called out and identified for the transient in any and all communications from the business owner as the "OTMD Assessment" or "Tourism Assessment" as specified in the Plan.

6. The assessments levied for the OTMD shall be applied towards sales and marketing programs to market assessed lodging businesses as tourist, meeting and event destinations, and other improvements and activities as set forth in the Plan.

7. Assessments levied on lodging businesses pursuant to this Resolution shall be levied on the basis of benefit. Because the services provided are intended to increase demand for sleeping room rentals, an assessment based on gross short-term sleeping room rental revenue is the best measure of benefit.

8. 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.

9. Bonds shall not be issued to fund the OTMD.

10. The OTMD shall include all lodging businesses with fifty-five (55) rooms or more located within the boundaries of the City of Oxnard. A boundary map is attached hereto and incorporated herein by reference.

11. The assessments shall be used for the purposes set forth above 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.

12. The assessments to fund the activities and improvements for the OTMD will be collected by the City on a monthly basis, and in accordance with Streets and Highways Code §36631.

13. The City Council, through adoption of this Resolution and the 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 Oxnard Convention & Visitors Bureau dba Visit Oxnard (VO) shall continue to be the OTMD Owners' Association.

14. VO, pursuant to Streets and Highways Code §36650, 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 and activities described in the report. The first report shall be due after the first year of operation of the OTMD.

15. The OTMD renewed pursuant to this Resolution will be subject to any amendments to the Property and Business Improvement District Law of 1994 (California Streets and Highways Code §36600 et. seq.).

16. The City Clerk, or their designee, is directed to take all necessary actions to complete the renewal of the OTMD and to levy the assessments.

17. This Resolution shall take effect immediately upon its adoption by the City Council.

I HEREBY CERTIFY that the foregoing Resolution of Formation was introduced and adopted at a regular meeting of the City Council on the _____ day of _____, 2023 by the following vote:

AYES:

NOES:
ABSENT:
ABSTAIN:

_____
John C. Zaragoza, Mayor

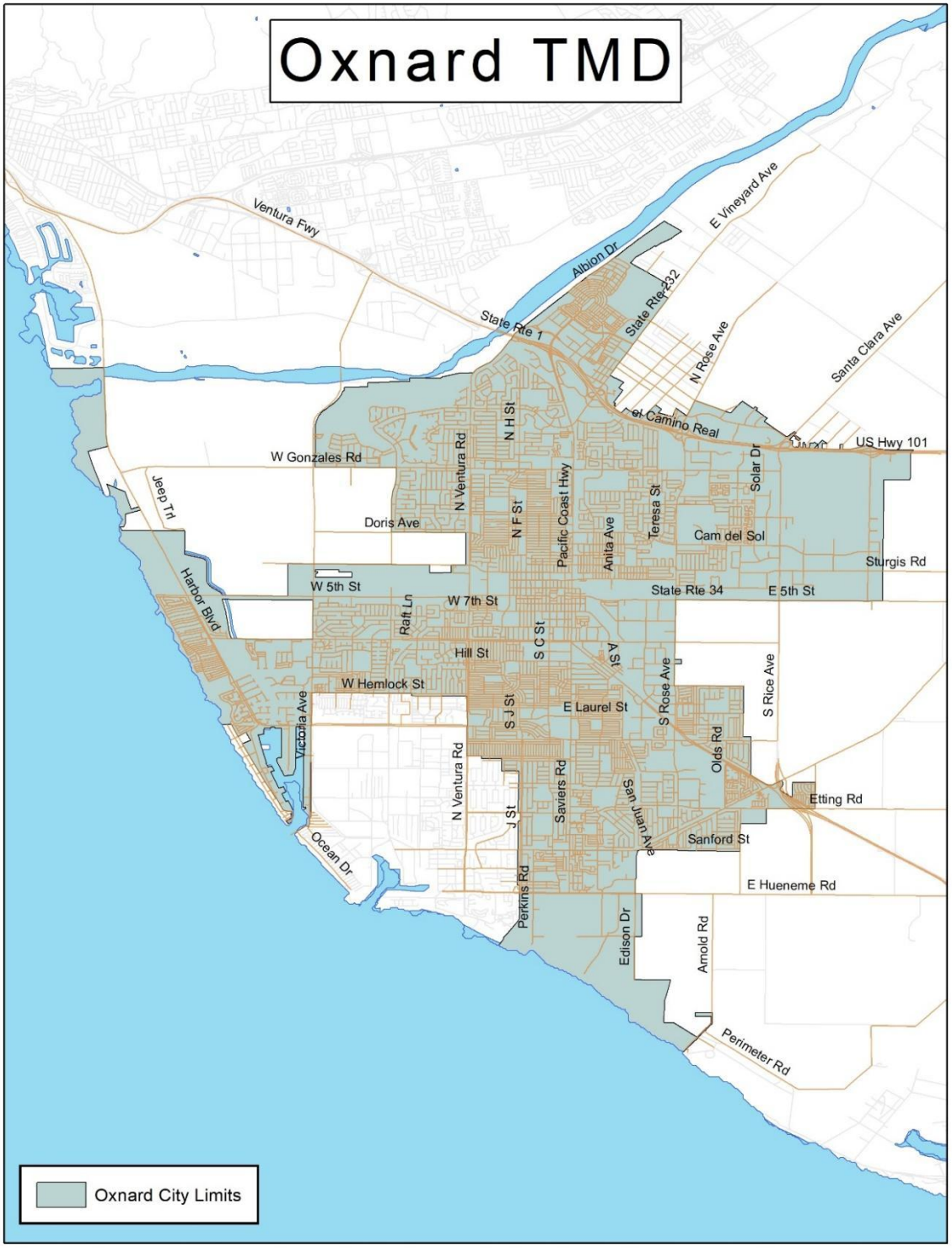
Attest

_____
Rose Chaparro, City Clerk

Approved as to Form:

_____
Stephen M. Fischer, City Attorney

Boundary Map



CITY OF OXNARD

ORDINANCE NO. 3030

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 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. 3030 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
September 05, 2023

CITY OF OXNARD CALIFORNIA

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 (COMPLETED)

- 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 (CURRENT 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 and resolution.

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 and July 18, 2023 Council meetings.

Staff's Recommendation

That the City Council:

- Hold a final public hearing, declare results of the majority protest proceeding, and adopt a resolution renewing the Oxnard Tourism Marketing District; and

- Adopt 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.

CITY OF
OXNARD
CALIFORNIA

QUESTIONS?

CITY COUNCIL AGENDA REPORT

REPORTS
AGENDA ITEM NO. N.1

DATE: September 5, 2023

TO: City Council

FROM: Stephen Fischer, City Attorney, (805) 385-7483, stephen.fischer@oxnard.org

SUBJECT: Omnibus City Code Update. (10 minutes)

RECOMMENDATION

That the City Council approve the introduction and first reading by title only and waive further reading of an ordinance titled:

"AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD AMENDING VARIOUS SECTIONS OF THE OXNARD CITY CODE TO ADDRESS CHANGES IN STATE LAW, CORRECT ERRORS, AND UPDATE GENDER-NEUTRAL REFERENCES."

(The Finance & Governance Committee approved 3-0 on July 25, 2023)
Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/U-2QlNGaOLQ

BACKGROUND

Over the years, the OCC has been amended many times to address clerical errors and updates to legal citations. The ordinance before the City Council proposes non-substantive updates to address changes in state law, corrects minor errors, and updates gender-neutral references.

The proposed changes to the OCC include, but are not limited to, the following:

1. Updating the names of the City Council committees;
2. Clarifying that commissioners of the City's CAGs are appointed by the Mayor with the approval of the City Council;
3. Changing references from Rosenberg's Rules of Order to Robert's Rules of Order;
4. Updating the code to include changes in City employee titles (Chief Assistant City Attorney, Chief Financial Officer);
5. Updating gender-neutral language;
6. Modifying the number of days for which the City Council must reconsider a local emergency from 30 days to 60 days;
7. Updating state law references; and
8. Modifying chapter titles.

The City Attorney's Office intends to update the OCC as needed periodically.

STRATEGIC PRIORITIES

This agenda item supports the Organizational Effectiveness strategy. The purpose of the Organizational Effectiveness strategy is to reinforce, stabilize, improve, and strengthen the organizational foundation of the City in order to build a

modern, high-functioning City government that effectively and efficiently supports the operating departments in providing high-quality services and programs for our residents and businesses.

FINANCIAL IMPACT

There is no financial impact.

COMMITTEE OUTCOME

The Finance & Governance Committee approved 3-0 on July 25, 2023 to approve the staff recommendation and to forward the item for Council approval.

Prepared by: Jason Zaragoza, Deputy City Attorney

ATTACHMENTS

1. Redline_Omnibus City Code Update Ordinance_ 8.14.23
2. Clean_Omnibus City Code Update Ordinance_ 8.14.23
3. Omnibus City Code Update City Council Presentation

CITY COUNCIL OF THE CITY OF OXNARD
ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD AMENDING VARIOUS SECTIONS OF THE OXNARD CITY CODE TO ADDRESS CHANGES IN STATE LAW, CORRECT ERRORS, AND UPDATE GENDER-NEUTRAL REFERENCES

WHEREAS, the Oxnard City Code ("OCC") needs to be reviewed and amended periodically to address changes in state law, and correct clerical errors; and

WHEREAS, this omnibus code cleanup is not intended to be a comprehensive or substantive update to the OCC; and

WHEREAS, this omnibus code cleanup is meant to make relatively minor changes to maintain the OCC.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OXNARD DOES ORDAIN AS FOLLOWS:

Part 1. Section 1-20 of the Oxnard City Code is hereby amended to read as follows:

"The city council hereby declares that in order to ensure that the ~~citizens~~ residents of the city are given an administrative review opportunity, the following hearing procedures, sections 1-21 through 1-25, are adopted which shall be complied with prior to termination of utility services by the city for nonpayment of bills by customers."

Part 2. Section 2-1.1(A) of the Oxnard City Code is hereby amended to read as follows:

"(A) The following city council committees shall consist of three city council members per committee, appointed by the mayor and approved by at least four city councilmembers:

(1) The finance and governance committee;
(2) The public works and transportation committee;
(3) ~~The public safety committee~~The community services, public safety, housing & economic development committee.~~;~~"
~~(4) The housing and economic development committee; and~~
~~(5) The community services committee."~~

Part 3. Section 2-36(C) of the Oxnard City Code is hereby amended to read as follows:

"(C) A commissioner may be reappointed by the mayor, with the approval of the city council. However, no member of the commission may be appointed to serve more than two consecutive terms. This provision applies prospectively to all commissions. If a member serves less than half of a term, that member shall be eligible to serve two full consecutive terms thereafter."

Part 4. Section 2-39(A) of the Oxnard City Code is hereby amended to read as follows:

"(A) Each commission shall follow ~~Rosenberg's~~ Robert's Rules of Order."

Part 5. Section 2-96(A) of the Oxnard City Code is hereby amended to read as follows:

"(A) The commission shall consist of seven members~~ appointed by the city council~~. Members of the commission shall serve and may be removed and replaced at the pleasure of the city council. Members shall serve without compensation, shall reside in the city, and shall be at least 18 years of age."

Part 6. Section 2-136 of the Oxnard City Code is hereby amended to read as follows:

(B) The terms used in subsection (A) shall be defined as follows:

(1) "City employee designated herein" shall mean any city officer or employee in any of the following classifications:

(a) City council member;
(b) City manager;
(c) Assistant city manager;
(d) Deputy city manager;
(e) City attorney;
(f) Assistant city attorney;
(g) Chief assistant city attorney;
(~~g~~h) Deputy city attorney;
(~~h~~i) Development services director;
(~~i~~j) Community development director;
(~~j~~k) City planner;
(~~k~~l) Principal planner;
(~~l~~m) Building official;
(~~m~~n) Plan check engineer;
(~~n~~o) Supervising building inspector;
(~~o~~p) Code enforcement official;
(~~p~~q) ~~Finance and management services director~~Chief financial officer;
(~~q~~r) Housing director;
(~~r~~s) Public works director.

Part 7. Section 2-177 of the Oxnard City Code is hereby amended to read as follows:

"The ~~director of finance~~chief financial officer shall file with the city clerk a bond covering the faithful performance of ~~his/her~~the chief financial officer's duties, in the penal sum of not less than $20,000. The bond shall conform to the provisions of Chapter 3, Division 4, Title 1 of the Cal. Gov't Code. The premium on the bond shall be paid by the city."

Part 8. Section 2-180 of the Oxnard City Code is hereby amended to read as follows:

"After the end of each fiscal year, the ~~director of finance~~chief financial officer shall cause an audit of the city's financial reports for the previous fiscal year to be prepared promptly by a

certified public accountant. Within a reasonable time, the ~~director of finance~~chief financial officer shall present the audit to the city council at a public meeting."

Part 9. Section 2-184 of the Oxnard City Code is hereby amended to read as follows:

"The ~~finance director~~chief financial officer shall prepare a written form of demand and proposed check for each approved invoice and claim. Supporting documents such as the purchase order, and invoice or claim for payment shall be attached thereto. Demands shall be individually audited by the ~~finance director~~chief financial officer or designee, who shall certify as to the accuracy of each demand and the availability of funds for payment thereof. Such demands may be in the form of check-warrants and when approved by all officers as required by this code, shall be delivered to the assistant city treasurer. The assistant city treasurer shall subscribe a direction to the depository of funds to pay the funds to the order of the payee, which action shall convert the warrant, or demand, to a bona fide check."

Part 10. Section 2-186 of the Oxnard City Code is hereby amended to read as follows:

"SEC. 2-186. APPROVAL OF WARRANTS BY DIRECTOR OF FINANCE; REGISTERED WARRANTS; PAYMENT OF BONDS AND COUPONS.

(A) All demands approved by the proper board, commission or officers shall be presented to the city's ~~finance director~~chief financial officer, who shall examine the same; and if the amount thereof is legally due and there remains on the books an unexhausted balance or an appropriation against which the same may be charged, the ~~finance director~~chief financial officer shall approve such demand and draw and sign the warrant on the city treasury therefor, payable out of the proper fund.

(B) (1) Objections of the ~~finance director~~chief financial officer to any demand may be overruled by the city council, and the ~~finance director~~chief financial officer shall thereupon draw the warrant as directed by the city council.

(2) Such warrants, when presented to the assistant city treasurer, shall be paid by the ~~finance director~~chief financial officer out of the fund therein designated if there be sufficient money in such fund for that purpose.

(3) A warrant not paid for lack of funds shall be registered, and all registered warrants shall be paid in the order of registration when funds are available therefor.

(C) The ~~finance director~~chief financial officer shall draw warrants for payment of municipal or other bonds payable out of funds in the treasury upon presentation and surrender of the proper bonds and coupons, without approval of any body or officer."

Part 11. Section 2-180(B) of the Oxnard City Code is hereby amended to read as follows:

"(B) The department director or designee may authorize payment of a claim for refund of a fee or charge if ~~he/she~~the department director or designee determines that the fee or charge was overpaid or that the service, license or permit for which the fee or charge was paid was not received or used."

Part 12. Section 2-212(A) of the Oxnard City Code is hereby amended to read as follows:

"(A) The city council hereby adopts Oxnard police department Policy Manual Section 708 (the "policy") which shall govern the use of military equipment by the Oxnard police department. The policy may be amended by the police chief or ~~his/her~~ the police chief's designee, subject to city council approval."

Part 13. Section 2-224(B) of the Oxnard City Code is hereby amended to read as follows:

"(B) A description is meaningful if it is sufficiently clear and specific to alert a person of average intelligence and education whose interests are affected by the item that ~~he or she~~ the person may have reason to attend the meeting or seek more information on the item. The description should be brief, concise and written in plain, easily understood English."

Part 14. Section 3-3(B) of the Oxnard City Code is hereby amended to read as follows:

"(B) The provisions of the competitive service system shall apply to all appointive officers and employees. Members of the noncompetitive service shall include all the elected officers, the city manager, assistant city manager, deputy city manager, the city attorney, chief assistant city attorney, assistant city attorney, deputy city attorney, department directors, all appointees on boards, commissions, and committees, all part-time employees, all employees paid on an hourly or per diem wage, and seasonal employees."

Part 15. Section 3-36 of the Oxnard City Code is hereby amended to read as follows:

"The purpose of this article is to implement Cal. Gov't Code, Sections 3500 *et seq.*, captioned "~~Public Employee Organization~~Local Public Employee Organizations," by providing orderly procedures for the administration of employer-employee relations between the city and its employee organizations and for resolving disputes regarding wages, hours and other terms and conditions of employment."

Part 16. Section 3-62 of the Oxnard City Code is hereby amended to read as follows:

"The purpose of this article is to implement Cal. Gov't Code, Sections 3500 *et seq.*, captioned "~~Public Employee Organization~~Local Public Employee Organizations," by providing orderly procedures for the administration of employer-employee relations between the city and its employee organizations, except the police and fire appropriate units, and for resolving disputes regarding wages, hours and other terms and conditions of employment of "clerical," "blue collar" and "miscellaneous" employees."

Part 17. Section 5-2(A)(4) of the Oxnard City Code is hereby amended to read as follows:

"(4) Threatening behavior by an animal toward any person that occurs in such circumstances as to cause such person reasonably to fear for ~~his/her~~the person's physical safety unless the person who, at the time of the animal's threatening behavior, was either (a) provoking the animal, or (b) willfully trespassing or committing some other tort upon the premises occupied by the owner or keeper of the animal"

Part 18. Section 6-2(D) of the Oxnard City Code is hereby amended to read as follows:

"(D) EMERGENCY - Local emergency, state of emergency or state of war emergency, depending ~~of~~ on the context."

Part 19. Section 6-2(I) of the Oxnard City Code is hereby amended to read as follows:

"(I) LOCAL EMERGENCY - The actual or threatened existence of conditions of disaster or of extreme peril to the safely of persons and property within the city caused by such conditions as air pollution, fire, flood, tsunami, storm, pandemic, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, the warning by the governor of the State of an earthquake or volcanic eruption, an earthquake, or other conditions, including conditions resulting from war or imminent threat of war, but not including conditions resulting from a labor controversy, which conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities of the city, requiring the combined forces of other public agencies to combat."

Part 20. Section 6-4 of the Oxnard City Code is hereby amended to read as follows:

"After a local emergency is proclaimed by the city council or the director, the city council shall review, at least every ~~30~~ 60 days until the local emergency is terminated, the need for continuing the local emergency and shall proclaim the termination of the local emergency at the earliest possible date that conditions warrant."

Part 21. Section 6-8(A)(2) of the Oxnard City Code is hereby amended to follows:

"(2) Do any act forbidden by any rule, regulation, order or directive issued pursuant to this chapter, including violation of any curfew so established. However, an affirmative defense to violation of such a curfew shall be that the person charged was traveling to or from work or school, was un-housed ~~homeless~~, or was seeking medical treatment."

Part 22. Section 7-9(B) of the Oxnard City Code is hereby amended to follows:

"(B) The property owner shall first present evidence to justify ~~his or her~~the property owner's failure to comply with the notice to abate nuisance. Thereafter, a representative of the city may present evidence. The burden of proof to justify noncompliance with the notice to abate nuisance is on the property owner."

Part 23. Section 7-72(E) of the Oxnard City Code is hereby amended to follows:

"(E) In the sidewalk abutting ~~his or her~~the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the city about the minor's presence;"

Part 24. Section 7-86(A) of the Oxnard City Code is hereby amended to follows:

"(A) It shall be unlawful for any person to ~~have in his or her possession~~ possess any adhesive sticker, etching tool, indelible marker, paint stick, or graffiti stick while in or upon any public facility, park, playground, swimming pool, beach, recreational facility, or other public building owned or operated by the city where signs forbidding such possession without valid authorization are displayed in a reasonable location or locations."

Part 25. Section 11-45(B) of the Oxnard City Code is hereby amended to read as follows:

"(B) A person, institution, or organization exempted by section 11-9 from some of the requirements of this chapter is not exempt from the requirement to provide the collector with a current public health permit issued to the person, institution or organization by the county pursuant to Cal. Health and Safety Code, Section ~~113923~~114387. The permit shall be presented to the collector before the person, institution or organization engages in peddling food anywhere in the city."

Part 26. Section 11-70.1(D) of the Oxnard City Code is hereby amended to read as follows:

"(D) A person whose request to submit an application without paying a fee or surcharge is denied by the alarm administrator may file with the alarm administrator a notice of appeal, stating the reasons why the applicant is entitled to file such application without paying the fee or surcharge. The notice of appeal shall be accompanied by the appeal fee set by resolution of the city council. The appeal procedure is provided in section 11-70.4, excluding subsection (D) thereof. Instead of the procedure provided in subsection 11-70.4(D), the appellant shall first present evidence, by written statement or otherwise, that ~~he or she~~the applicant is entitled to exemption from the fee or surcharge, and the alarm administrator may then present evidence that the appellant is not entitled to exemption."

Part 27. Section 11-381(A) of the Oxnard City Code is hereby amended to read as follows:

"(A) In addition to any other penalty authorized by law, a tobacco retailer permit may be suspended or revoked by the collector, after notice and an opportunity to be heard as set forth in chapter 1, article V of this code, for failure of the permittee, or any of the permittee's agents or employees, to comply with applicable local, State, or federal rules, regulations, or laws concerning tobacco retailing, based on matters occurring after the permit is issued or on matters not considered at the time of issuance of the permit that would have authorized denial of the permit or the imposition of conditions on the permit."

Part 28. The Title of Chapter 13 of the Oxnard City Code is hereby amended to read as follows:

"**CHAPTER 13: ~~TAXATION~~ASSESSMENTS, FEES AND TAXES**"

Part 29. Section 14-106(J) of the Oxnard City Code is hereby amended to read as follows:

"(J) A responsible person may refuse consent to an inspection conducted by the code official. If consent is refused, the code official may seek an administrative ~~search~~ inspection warrant pursuant to Cal. Code of Civil Procedure, Sections 1822.50 *et seq.*"

Part 30. Section 16-10(A)(69) is hereby added to the Oxnard City Code to read as follows:

"(69) ~~HOTEL~~ HOSPITAL - A health facility having a duly constituted governing body with overall administrative and professional responsibility and having an organized medical staff which provides 24-hour inpatient care including one or more of the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, dietary services, or psychiatric care and treatment."

Part 31. Section 15-11(B) of the Oxnard City Code is hereby amended to read as follows:

"(B) Neither a tentative parcel map nor parcel map shall be required in the situations described in Cal. Gov't Code, Section 66428, Subsection (a), Subdivisions (1) and (2); provided, however, that a parcel map shall be required in a situation described in Cal. Gov't Code, Section 66428, Subsection (a), Subdivision (2) ~~and~~ if the decision-making body finds, based on facts in the record, that public policy necessitates a parcel map."

Part 32. Section 15-267(D) of the Oxnard City Code is hereby amended to read as follows:

"(D) If any lot to be merged was not created in compliance with applicable laws and ordinances in effect at the time of the lot's creation, the application shall be heard by the commission, which may impose on the granting of the application whatever conditions the commission could impose on the issuance of a conditional certificate of compliance pursuant to Cal. Gov't Code, Section 66499.36 Subdivision (B) with respect to such illegally created lot. If one or more of the lots to be merged ~~in~~ is nonconforming at the time of application, the application may be approved if the resulting parcel and all structures and parking spaces thereon comply with the general plan, with any applicable specific plan, and with the minimum area, width, frontage and yard requirements of the zone in which the parcel is located."

Part 33. Severability. If any section, subsection, sentence, clause, phrase, part or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one of more section, subsections, sentences, clauses, phrases, parts or portions be declared invalid or unconstitutional.

Part 34. Pursuant to Cal. Gov. 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 days before the City Council's adoption of the ordinance.

Part 35. Within fifteen days after passage, the City Clerk shall cause this ordinance to be published one time in a newspaper of general circulation, published and circulated in the City. Ordinance No. _____ was first read on _____, 2023, and finally adopted on _____, 2023, to become effective thirty days thereafter.

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
John C. Zaragoza, Mayor

ATTEST:

_____
Rose Chaparro, City Clerk

APPROVED AS TO FORM:

_____
Stephen M. Fischer, City Attorney

CITY COUNCIL OF THE CITY OF OXNARD
ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD AMENDING VARIOUS SECTIONS OF THE OXNARD CITY CODE TO ADDRESS CHANGES IN STATE LAW, CORRECT ERRORS, AND UPDATE GENDER-NEUTRAL REFERENCES

WHEREAS, the Oxnard City Code ("OCC") needs to be reviewed and amended periodically to address changes in state law, and correct clerical errors; and

WHEREAS, this omnibus code cleanup is not intended to be a comprehensive or substantive update to the OCC; and

WHEREAS, this omnibus code cleanup is meant to make relatively minor changes to maintain the OCC.

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"(A) Each commission shall follow Robert's Rules of Order."

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"(A) The commission shall consist of seven members. Members of the commission shall serve and may be removed and replaced at the pleasure of the city council. Members shall serve without compensation, shall reside in the city, and shall be at least 18 years of age."

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(B) The terms used in subsection (A) shall be defined as follows:

(1) "City employee designated herein" shall mean any city officer or employee in any of the following classifications:

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(b) City manager;
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(g) Chief assistant city attorney;
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"SEC. 2-186. APPROVAL OF WARRANTS BY DIRECTOR OF FINANCE; REGISTERED WARRANTS; PAYMENT OF BONDS AND COUPONS.

(A) All demands approved by the proper board, commission or officers shall be presented to the city's chief financial officer, who shall examine the same; and if the amount thereof is legally due and there remains on the books an unexhausted balance or an appropriation against which the same may be charged, the chief financial officer shall approve such demand and draw and sign the warrant on the city treasury therefor, payable out of the proper fund.

(B) (1) Objections of the chief financial officer to any demand may be overruled by the city council, and the chief financial officer shall thereupon draw the warrant as directed by the city council.

(2) Such warrants, when presented to the assistant city treasurer, shall be paid by the chief financial officer out of the fund therein designated if there be sufficient money in such fund for that purpose.

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"The purpose of this article is to implement Cal. Gov't Code, Sections 3500 *et seq.*, captioned "Local Public Employee Organizations," by providing orderly procedures for the administration of employer-employee relations between the city and its employee organizations and for resolving disputes regarding wages, hours and other terms and conditions of employment."

Part 16. Section 3-62 of the Oxnard City Code is hereby amended to read as follows:

"The purpose of this article is to implement Cal. Gov't Code, Sections 3500 *et seq.*, captioned "Local Public Employee Organizations," by providing orderly procedures for the administration of employer-employee relations between the city and its employee organizations, except the police and fire appropriate units, and for resolving disputes regarding wages, hours and other terms and conditions of employment of "clerical," "blue collar" and "miscellaneous" employees."

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"(D) EMERGENCY - Local emergency, state of emergency or state of war emergency, depending on the context."

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"(2) Do any act forbidden by any rule, regulation, order or directive issued pursuant to this chapter, including violation of any curfew so established. However, an affirmative defense to violation of such a curfew shall be that the person charged was traveling to or from work or school, was un-housed, or was seeking medical treatment."

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"(B) The property owner shall first present evidence to justify the property owner's failure to comply with the notice to abate nuisance. Thereafter, a representative of the city may present evidence. The burden of proof to justify noncompliance with the notice to abate nuisance is on the property owner."

Part 23. Section 7-72(E) of the Oxnard City Code is hereby amended to follows:

"(E) In the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the city about the minor's presence;"

Part 24. Section 7-86(A) of the Oxnard City Code is hereby amended to follows:

"(A) It shall be unlawful for any person to possess any adhesive sticker, etching tool, indelible marker, paint stick, or graffiti stick while in or upon any public facility, park, playground, swimming pool, beach, recreational facility, or other public building owned or operated by the

city where signs forbidding such possession without valid authorization are displayed in a reasonable location or locations."

Part 25. Section 11-45(B) of the Oxnard City Code is hereby amended to read as follows:

"(B) A person, institution, or organization exempted by section 11-9 from some of the requirements of this chapter is not exempt from the requirement to provide the collector with a current public health permit issued to the person, institution or organization by the county pursuant to Cal. Health and Safety Code, Section 114387. The permit shall be presented to the collector before the person, institution or organization engages in peddling food anywhere in the city."

Part 26. Section 11-70.1(D) of the Oxnard City Code is hereby amended to read as follows:

"(D) A person whose request to submit an application without paying a fee or surcharge is denied by the alarm administrator may file with the alarm administrator a notice of appeal, stating the reasons why the applicant is entitled to file such application without paying the fee or surcharge. The notice of appeal shall be accompanied by the appeal fee set by resolution of the city council. The appeal procedure is provided in section 11-70.4, excluding subsection (D) thereof. Instead of the procedure provided in subsection 11-70.4(D), the appellant shall first present evidence, by written statement or otherwise, that the applicant is entitled to exemption from the fee or surcharge, and the alarm administrator may then present evidence that the appellant is not entitled to exemption."

Part 27. Section 11-381(A) of the Oxnard City Code is hereby amended to read as follows:

"(A) In addition to any other penalty authorized by law, a tobacco retailer permit may be suspended or revoked by the collector, after notice and an opportunity to be heard as set forth in chapter 1, article V of this code, for failure of the permittee, or any of the permittee's agents or employees, to comply with applicable local, State, or federal rules, regulations, or laws concerning tobacco retailing, based on matters occurring after the permit is issued or on matters not considered at the time of issuance of the permit that would have authorized denial of the permit or the imposition of conditions on the permit."

Part 28. The Title of Chapter 13 of the Oxnard City Code is hereby amended to read as follows:

"**CHAPTER 13: ASSESSMENTS, FEES AND TAXES**"

Part 29. Section 14-106(J) of the Oxnard City Code is hereby amended to read as follows:

"(J) A responsible person may refuse consent to an inspection conducted by the code official. If consent is refused, the code official may seek an administrative inspection warrant pursuant to Cal. Code of Civil Procedure, Sections 1822.50 *et seq.*"

Part 30. Section 16-10(A)(69) is hereby added to the Oxnard City Code to read as follows:

"(69) HOSPITAL - A health facility having a duly constituted governing body with overall administrative and professional responsibility and having an organized medical staff which provides 24-hour inpatient care including one or more of the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, dietary services, or psychiatric care and treatment."

Part 31. Section 15-11(B) of the Oxnard City Code is hereby amended to read as follows:

"(B) Neither a tentative parcel map nor parcel map shall be required in the situations described in Cal. Gov't Code, Section 66428, Subsection (a), Subdivisions (1) and (2); provided, however, that a parcel map shall be required in a situation described in Cal. Gov't Code, Section 66428, Subsection (a), Subdivision (2) if the decision-making body finds, based on facts in the record, that public policy necessitates a parcel map."

Part 32. Section 15-267(D) of the Oxnard City Code is hereby amended to read as follows:

"(D) If any lot to be merged was not created in compliance with applicable laws and ordinances in effect at the time of the lot's creation, the application shall be heard by the commission, which may impose on the granting of the application whatever conditions the commission could impose on the issuance of a conditional certificate of compliance pursuant to Cal. Gov't Code, Section 66499.36 Subdivision (B) with respect to such illegally created lot. If one or more of the lots to be merged is nonconforming at the time of application, the application may be approved if the resulting parcel and all structures and parking spaces thereon comply with the general plan, with any applicable specific plan, and with the minimum area, width, frontage and yard requirements of the zone in which the parcel is located."

Part 33. Severability. If any section, subsection, sentence, clause, phrase, part or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one of more section, subsections, sentences, clauses, phrases, parts or portions be declared invalid or unconstitutional.

Part 34. Pursuant to Cal. Gov. 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 days before the City Council's adoption of the ordinance.

Part 35. Within fifteen days after passage, the City Clerk shall cause this ordinance to be published one time in a newspaper of general circulation, published and circulated in the City. Ordinance No. _____ was first read on _____, 2023, and finally adopted on _____, 2023, to become effective thirty days thereafter.

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
John C. Zaragoza, Mayor

ATTEST:

_____
Rose Chaparro, City Clerk

APPROVED AS TO FORM:

_____
Stephen M. Fischer, City Attorney

Omnibus City Code Update

City Council

September 5, 2023

Jason Zaragoza, Deputy City Attorney

CITY OF OXNARD CALIFORNIA

RECOMMENDATION

That the City Council approve the introduction and first reading by title only and waive further reading of an ordinance titled:

“AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD AMENDING VARIOUS SECTIONS OF THE OXNARD CITY CODE TO ADDRESS CHANGES IN STATE LAW, CORRECT ERRORS, AND UPDATE GENDER-NEUTRAL REFERENCES."

BACKGROUND

On March 10, 1962, the Oxnard City Council adopted Ordinance No. 872, adopting the Oxnard City Code ("OCC"). Over the years, the OCC has been amended many times to address clerical errors and updates to legal citations. The ordinance before the Committee, proposes non-substantive changes to address changes in state law, corrects minor errors and updates gender-neutral references.

PROPOSED CHANGES

The proposed changes to the OCC include, but are not limited to, the following:

- Updating the names of the City Council committees;
- Clarifying that commissioners of the City's CAGs are appointed by the Mayor with the approval of the City Council;
- Changing references from Rosenberg's Rules of Order to Robert's Rules of Order;
- Updating the code to include changes in City employee titles (Chief Assistant City Attorney, Chief Financial Officer);
- Updating gender-neutral language;
- Modifying the number of days for which the City Council must reconsider a local emergency from 30 days to 60 days;
- Updating state law references; and
- Modifying chapter titles.

CITY OF OXNARD CALIFORNIA

QUESTIONS

CITY COUNCIL AGENDA REPORT

REPORTS
AGENDA ITEM NO. N.2

DATE: September 5, 2023

TO: City Council

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

SUBJECT: Draft Ventura County Stormwater Permit Implementation and Cost-Sharing Agreement A-8537. (10 minutes)

RECOMMENDATION

That the City Council approve and authorize the Mayor to sign, once finalized, the Ventura County Stormwater Permit Implementation and Cost-Sharing Agreement (Agreement) with the County of Ventura, the Ventura County Watershed Protection District, and the Cities of Camarillo, Fillmore, Moorpark, Ojai, Port Hueneme, San Buenaventura, Santa Paula, Simi Valley, and Thousand Oaks.

(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/hsCCDxXgrNQ

BACKGROUND

Municipal Separate Storm Sewer System (MS4)

A Municipal Separate Storm Sewer System (MS4) is a collection of structures, including ditches, roadside inlets and underground pipes, designed to gather stormwater from developed areas and discharge it into local streams, rivers and the ocean. Watersheds are land areas that channel rainfall and snowmelt to creeks, streams, and rivers and outflow points to the ocean. “Municipal" refers to the local government responsible for the administration of the developed areas that cover the MS4’s areas. The City of Oxnard is responsible for maintaining most of the MS4 in its areas of jurisdiction. The County has some MS4 facilities within the City’s boundaries, mostly regional storm drain facilities, which they are responsible for.

National Pollutant Discharge Elimination System (NPDES) Permit

NPDES is a permit based system that regulates the discharges of pollutants from MS4’s into Waters of the United States (WOTUS). NPDES was created by the 1972 Clean Water Act and prohibits MS4 responsible agencies from discharging into WOTUS unless they have a NPDES Permit. The NPDES Permit contains limits on what you can discharge, monitoring and reporting requirements, and other provisions to ensure that the discharge does not impair water quality or people's health. The California’s State Water Resources Control Board oversees the NPDES program and the Los Angeles Regional Water Quality Control Board (Regional Board) administers NPDES permits and enforces regulations.

Consolidated NPDES Permit

Historically, each responsible party that owned and operated an MS4 that discharged stormwater and urban runoff into WOTUS, held their own individual NPDES Permit.

In 1992, the individual Ventura County MS4 jurisdictions consisting of the County of Ventura, Ventura County

Watershed Protection District, and the Cities of Camarillo, Fillmore, Moorpark, Ojai, Oxnard, Port Hueneme, San Buenaventura, Santa Paula, Simi Valley and Thousand Oaks (Parties) jointly filed and received a joint NPDES Permit with the Regional Board.

On September 11, 2021, Regional Board Order No. R4-2021-0105 became the current MS4 NPDES permit. The MS4 NPDES permit covers Ventura and Los Angeles Counties and all the incorporated cities therein and supersedes the previous permit. It also designated the individual MS4 Parties listed above as Co-Permittees for the various Ventura County Watersheds.

Ventura County Stormwater Permit Implementation and Cost-Sharing Agreement

Since 1992, the Parties have entered into a series of agreements to manage the joint NPDES Permit. The Agreements set forth signatories responsibilities to develop, implement, and fund the Implementation Agreement to manage the Ventura Countywide Stormwater Quality Management Program (VCSQMP). The VCSQMP is an integrated stormwater discharge management program to comply with Environmental Protection Agency and Regional Board regulations and permits governing their MS4s and stormwater discharges and protecting and improving surface water quality in Ventura County. The current Implementation Agreement expires on September 11, 2023.

Attachment 1 contains the new Draft Final Agreement that will replace the current agreement. It is a draft because it will not be final until approved by the Ventura County Board of Supervisors at their September 12, 2023, meeting. Once approved, the new agreement will end September 11, 2027, one year after the current MS4 NPDES Permit expires on September 11, 2026.

DISCUSSION

Many decisions and actions are required of the Co-Permittees in the first 30 months following the NPDES Permit effective date of September 11, 2021. Some key actions among them were deciding whether to implement a Watershed Management Program (WMP), coordination on a Monitoring Program, and filing the corresponding Notices of Intent. Many of the other requirements are essentially the same as the ones listed in the previous Permit.

To comply with the new NPDES Permit, the County and cities embarked on the development of a draft WMP. As part of this process, the Ventura County MS4 Management Committee selected a consultant (Craftwater) to facilitate the development and approval of the WMP. The WMP is to be submitted to the Regional Board by September 11, 2023, along with a Monitoring Program. Attachment 2 contains a map that shows the watersheds in Ventura County.

The WMP is a combination of rigorous data analysis and modeling, technical engineering, and robust stakeholder coordination to provide a clear pathway towards compliance with MS4 permittees' requirements for improved stormwater quality.

City staff have been working closely with the Co-Permittees on a common approach for compliance. The proposed multi-party approach provides cost savings, access to subject matter expertise, and regional cooperation. As such, staff recommends approving Agreement A-8537.

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

Current MS4 compliance strategies include minimum control measures (MCM's) such as street sweeping, low impact development (LID) required by new private developments, and trash capture through stormwater catch basin trash excluders. Current funding for the City's program consists of the Countywide Benefit Assessment (BA) program and the City's General Fund. The current annual cost of participating in the VCSQMP is between $300,000 - $400,000 per year, which is covered by a portion of the BA collected by the County. In addition to this program, the City has a specific Stormwater budget (Fund 114) that covers the annual costs of the stormwater program the City provides.

The Agreement does not include specific cost information. As part of the WMP conducted by Craftwater, potential pollution control measures were identified in each watershed to meet NPDES discharge requirements. The cost estimations at this time are rough order magnitude (ROM) estimates and are not meant to provide a set minimum or maximum amount. The estimated costs will become more accurate after the Regional Board reviews and approves the WMP. The true cost of implementing the programs and projects will be known after the specific programs and projects are confirmed. Staff will then return to Council with actual financial impacts and potential budget appropriation requests.

Future cost projections, above what the City currently budgets in a Fiscal Year, for the new permit and WMP implementation (if accepted by the Regional Board as submitted), are estimated to be between $939,000 - $1,659,000 per year for enhanced management, operation and maintenance, and source contamination investigations (see table below). Additionally, there may be one-time costs to construct improvements necessary to meet Permit requirements (e.g. retention/detention basins). The current one-time ROM cost estimate is nearly $5M for the City.

The following table contains a breakdown of ROM cost estimates by watershed:

Watershed	City Estimated Annual Contributions	City One-Time Payments
Calleguas Creek	$421,000-$625,000	$4,782,000
Santa Clara River	$158,000-$314,000	$0
Ventura County Coastal	$360,000-$720,000	$0
Total	**$939,000-$1,659,000**	**$4,782,000**

Because it is anticipated that the cost of the current and future program costs will increase, the Agreement states that the Parties will work to identify and evaluate programs and opportunities to secure additional funding to implement programs and projects to satisfy their individual and collective compliance obligations under the Permit.

Because the estimated annual contributions listed above are projected future costs, there is no specific fiscal impact to approving this Agreement. Staff will return to Council at a future date when final costs are determined and with a request for a budget appropriation from the General Fund to consider for approval.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Jan Hauser, Wastewater Division Manager, Joseph Marcinko, Assistant Public Works Director

ATTACHMENTS

1. DRAFT FINAL Agreement A-8537
2. VC Regional Wwatershed Map
3. Presentation

VENTURA COUNTY STORMWATER PERMIT IMPLEMENTATION AND COST-SHARING AGREEMENT

This "AGREEMENT" is made and entered into by and between the County of Ventura (the "COUNTY"), the Ventura County Watershed Protection District (the "DISTRICT"), and the Cities of Camarillo, Fillmore, Moorpark, Ojai, Oxnard, Port Hueneme, San Buenaventura, Santa Paula, Simi Valley and Thousand Oaks (individually, a "CITY" and collectively, the "CITIES"). Hereinafter, the COUNTY, the DISTRICT, a CITY, and the CITIES may be referred to individually as a "PARTY" and collectively as the "PARTIES".

RECITALS

WHEREAS, Congress in 1987 amended Section 402 of the Federal Clean Water Act [33 U.S.C.A. 1342(p)] to require the federal Environmental Protection Agency ("EPA") to promulgate regulations for stormwater discharges; and

WHEREAS, the EPA regulations require a National Pollutant Discharge Elimination System ("NPDES") permit for the discharge of stormwater into waters of the United States; and

WHEREAS, the PARTIES each own and operate a municipal separate storm sewer system(s) ("MS4") that discharge stormwater and urban runoff into waters of the United States; and

WHEREAS, in 1992, the PARTIES jointly filed an application with the Los Angeles Regional Water Quality Control Board ("REGIONAL BOARD"), the state agency responsible for regulating water quality in Ventura County, for a NPDES permit covering their MS4s and stormwater discharges; and

WHEREAS, the REGIONAL BOARD in 1994 adopted Order No. 94-082, which regulated the PARTIES' MS4s and stormwater discharges; and

WHEREAS, the REGIONAL BOARD in 2000 replaced Order No. 94-082 with Order No. 00-108; and

WHEREAS, the REGIONAL BOARD on May 7, 2009 replaced Order No. 00-108 with Order No. 09-0057; and

WHEREAS, the REGIONAL BOARD on July 8, 2010 adopted Order No. 2010-0108, which replaced Order No. 09-0057, designated the PARTIES as "Co-Permittees", and designated the DISTRICT as the "Principal Permittee"; and

WHEREAS, the REGIONAL BOARD on July 23, 2021 adopted Order No. R4-2021-0105 ("PERMIT"), which replaced Order No. 2010-0108, designates the PARTIES as "Co-Permittees", and removes the designation of "Principal Permittee"; and

WHEREAS, the Ventura County Watershed Protection District Act ("ACT") establishes the Ventura County Watershed Protection District Benefit Assessment Program ("BA PROGRAM"), which provides the DISTRICT the authority to levy and collect assessments on

taxable real property to pay the costs and expenses of, among other things, stormwater control and preservation that is a common benefit to Ventura County; and

WHEREAS, since 1992, the PARTIES have entered into a series of agreements ("IMPLEMENTATION AGREEMENT") that set forth their responsibilities to develop, implement, and fund the Ventura Countywide Stormwater Quality Management Program ("COUNTYWIDE PROGRAM"), an integrated stormwater discharge management program to comply with EPA and REGIONAL BOARD permits and regulations governing their MS4s and stormwater discharges and protecting and improving water quality in Ventura County; and

WHEREAS, the IMPLEMENTATION AGREEMENT provides for the DISTRICT's collection of assessments on behalf of the PARTIES to fund the COUNTYWIDE PROGRAM through the BA PROGRAM; and

WHEREAS, the PARTIES have approved extensions of the IMPLEMENTATION AGREEMENT in order to provide for the ongoing administration and annual funding of the COUNTYWIDE PROGRAM; and

WHEREAS, the current IMPLEMENTATION AGREEMENT expires on September 11, 2023; and

WHEREAS, the PARTIES recognize that their continued cooperation to administer and fund the COUNTYWIDE PROGRAM is an integral part of ensuring their collective compliance with the PERMIT and thus is in their mutual best interests; and

WHEREAS, given the July 2021 adoption of the PERMIT, the PARTIES desire to update the IMPLEMENTATION AGREEMENT as provided in this AGREEMENT to set forth their responsibilities for ongoing administration and continued funding of the COUNTYWIDE PROGRAM.

NOW, THEREFORE, the PARTIES agree as follows:

1. PURPOSE

A. This AGREEMENT is intended to establish the PARTIES' roles and responsibilities to administer and fund the COUNTYWIDE PROGRAM.

B. The PARTIES' roles and responsibilities to implement, administer, and fund any PERMIT compliance activities other than the COUNTYWIDE PROGRAM may be memorialized in separate agreements as needed.

2. MANAGEMENT COMMITTEE

A. There is established a Ventura County Stormwater Permit Management Committee ("MANAGEMENT COMMITTEE"), consisting of 12 members with one member representing each PARTY. PARTY representatives shall be appointed by either the legislative body or the public works director of each PARTY. All PARTY representatives appointed to serve on the MANAGEMENT COMMITTEE shall be senior level managers or staff.

B. The MANAGEMENT COMMITTEE's primary objective is to review and direct the administration and funding of the COUNTYWIDE PROGRAM to assist with the PARTIES' compliance with the PERMIT. In this capacity, the MANAGEMENT COMMITTEE is responsible for directing, reviewing, and approving COUNTYWIDE PROGRAM work and budgets, including but not limited to those related to tasks and functions set forth in Appendix A, attached hereto and incorporated herein by this reference.

C. The MANAGEMENT COMMITTEE shall meet as needed but not less than quarterly.

D. The MANAGEMENT COMMITTEE will be chaired by the DISTRICT representative.

E. Each member of the MANAGEMENT COMMITTEE will have one vote for any motion. All budgetary motions must be approved by a 2/3 vote of the MANAGEMENT COMMITTEE (8 of 12), and any non-budgetary motion must be approved by majority vote (7 of 12).

F. In addition to the COUNTYWIDE PROGRAM, the MANAGEMENT COMMITTEE shall be responsible for directing and reviewing the activities, work, and budgets of any subcommittee, including but not limited to the BA PROGRAM.

3. DIRECTORS COMMITTEE

A. There is also established a Public Works Directors Committee ("DIRECTORS COMMITTEE"). The DIRECTORS COMMITTEE is composed of 12 members, consisting of the public works director of each CITY, the public works director of the COUNTY, and the director of the DISTRICT (collectively, "DIRECTORS").

B. The primary purpose and function of the DIRECTORS COMMITTEE is to hear and decide appeals of MANAGEMENT COMMITTEE actions and decisions.

4. COUNTYWIDE PROGRAM; ADMINISTRATION

A. Responsibility to Implement

i. The DISTRICT will implement and administer the COUNTYWIDE PROGRAM, which includes but is not necessarily limited to the activities and work set forth in Appendix A.

ii. The DISTRICT will retain all COUNTYWIDE PROGRAM- and PERMIT-related documents and records for no less than five (5) years and will provide copies of said records to any PARTY who requests them, and thereafter may dispose of such documents and records according to the DISTRICT's document retention policy, as may be amended from time to time. The PARTIES acknowledge that the Public Records Act (Gov. Code, § 7920.000 et seq.) applies to each of them, and the DISTRICT will respond to requests for records from any PARTY, the REGIONAL BOARD, the EPA, or the public consistent with the requirements of the Public Records Act.

B. Responsibility to Fund

i. The PARTIES acknowledge that each of them is responsible to fund a portion of the budget for the performance of activities necessary to comply with the PERMIT and, by pooling their resources to implement and administer the COUNTYWIDE PROGRAM, each PARTY receives the benefit of better coordination and cost sharing for PERMIT compliance.

ii. COUNTYWIDE PROGRAM activities and work will be paid for by the DISTRICT with funds from the PARTIES. In accordance with this Section 4(B), the DISTRICT may use funds from the BA PROGRAM, funds to be deducted from the BA PROGRAM, or payments made directly by the PARTIES to fund COUNTYWIDE PROGRAM activities and work.

iii. The DISTRICT will pay 50% of the annual costs of the COUNTYWIDE PROGRAM, following adoption of a final annual budget by the MANAGEMENT COMMITTEE pursuant to Section 5(A).

iv. Collectively, the COUNTY and the CITIES will pay 50% of the annual costs of the COUNTYWIDE PROGRAM activities set forth in Appendix A, following adoption of a final annual budget by the MANAGEMENT COMMITTEE pursuant to Section 5(A). Individually, the COUNTY and each CITY will pay an amount of the annual costs they are collectively responsible for based on the proportional rate that each of them is assigned under the BA PROGRAM for the final annual budget adopted by the MANAGEMENT COMMITTEE pursuant to Section 5(A).

5. COUNTYWIDE PROGRAM; BUDGET AND FUNDING

A. By February 1 of each year, the DISTRICT will prepare and submit to the MANAGEMENT COMMITTEE a projected annual budget for the following fiscal year's administration of the COUNTYWIDE PROGRAM. The projected annual budget will include, but not be limited to, estimates for labor and fixed costs for COUNTYWIDE PROGRAM activities and work. The MANAGEMENT COMMITTEE shall review and discuss changes to the projected annual budget and thereafter approve a final annual budget prior to the start of the next fiscal year (July 1).

B. The DISTRICT will annually collect benefit assessments through the BA PROGRAM to be used to fund the COUNTYWIDE PROGRAM. By September 1 of each year, the DISTRICT shall notify the PARTIES of the assessments collected on their behalf via the BA PROGRAM during the prior fiscal year.

C. By October 1 of each year, the DISTRICT will apply the assessments collected via the BA PROGRAM during the prior fiscal year to satisfy the PARTIES' responsibility to fund the COUNTYWIDE PROGRAM unless a PARTY notifies the DISTRICT in writing by September 1 to return the BA PROGRAM assessments collected by the DISTRICT.

D. If, in any fiscal year, the DISTRICT collects assessments via the BA PROGRAM less than a PARTY's responsibility to fund the COUNTYWIDE PROGRAM, then the DISTRICT will invoice the PARTY for the balance of its responsibility to fund the COUNTYWIDE PROGRAM. Alternatively, if, in any fiscal year, the DISTRICT collects assessments via the BA

PROGRAM more than a PARTY's responsibility to fund the COUNTYWIDE PROGRAM, then the DISTRICT will refund to the PARTY the difference between the BA PROGRAM assessments collected and the PARTY's responsibility to fund the COUNTYWIDE PROGRAM.

E. By September 1 of each year, the DISTRICT will prepare and provide to the MANAGEMENT COMMITTEE a report that reconciles COUNTYWIDE PROGRAM costs and expenditures against the annual budget approved by the MANAGEMENT COMMITTEE for the previous fiscal year.

F. The PARTIES, through the MANAGEMENT COMMITTEE, will work to identify and evaluate programs and opportunities to secure additional funding to implement programs and projects to satisfy their individual and collective compliance obligations under the PERMIT.

G. In the event additional funding is obtained for administration of the COUNTYWIDE PROGRAM, the PARTIES will, at a minimum, meet to determine whether the additional funding may be used to reduce the annual cost(s) of the COUNTYWIDE PROGRAM and/or each PARTY's annual responsibility to fund the COUNTYWIDE PROGRAM, and to revisit the cost-sharing formula set forth in this AGREEMENT.

6. INDIVIDUAL PERMIT COMPLIANCE

A. Each PARTY acknowledges that the PERMIT imposes regulatory requirements on its respective MS4, on its stormwater discharges, and/or within its jurisdiction that are not addressed or satisfied by the COUNTYWIDE PROGRAM, and therefore agrees that each PARTY is responsible for complying with PERMIT requirements applicable to its respective MS4, its stormwater discharges, and within its jurisdiction.

B. Nothing in this AGREEMENT prohibits any PARTY from entering into a separate agreement with another PARTY or PARTIES to jointly implement and administer activities, projects, and/or programs to comply with any PERMIT requirement(s) shared by or common to them. Such agreements may include the PARTIES' responsibility to pay for individual PERMIT compliance activities, projects, and/or programs, including a cost-sharing formula. Such agreements will not be appended to, but may reference, this AGREEMENT.

7. PERMIT NONCOMPLIANCE; INDIVIDUAL PARTY LIABILITY

Notwithstanding anything in this AGREEMENT to the contrary, each PARTY is solely responsible for all costs and liabilities related to any violation of or noncompliance with the PERMIT requirements applicable to its MS4, its stormwater discharges, and/or within its respective jurisdiction, including but not limited to the payment of penalties and interest and costs related to implementing corrective actions and providing a legal defense.

8. DISPUTE RESOLUTION

A. COUNTYWIDE PROGRAM. Any PARTY may appeal a decision of the MANAGEMENT COMMITTEE related to the COUNTYWIDE PROGRAM to the DIRECTORS COMMITTEE. All appeals must be submitted to the DISTRICT in writing within seven (7) calendar days of the MANAGEMENT COMMITTEE action or decision, identify the MANAGEMENT COMMITTEE action or decision appealed, and include any explanation or materials in support of the appeal. Upon receiving a written appeal, the DISTRICT shall promptly

provide it to the DIRECTORS COMMITTEE for review and notify the MANAGEMENT COMMITTEE of the appeal at the next MANAGEMENT COMMITTEE meeting. Actions or decisions of the MANAGEMENT COMMITTEE will be reversed only upon a 2/3 vote of all DIRECTORS (and not merely upon a 2/3 vote of DIRECTORS present at any given DIRECTORS COMMITTEE meeting). Upon granting an appeal, the challenged MANAGEMENT COMMITTEE action or decision will be vacated and returned to the MANAGEMENT COMMITTEE for subsequent consideration and action (if any).

B. Individual PERMIT Compliance Activities. Disputes related to individual PERMIT compliance activities shall be decided by the PARTIES participating in those activities, including pursuant to any dispute resolution provisions included in any agreement amongst the participating PARTIES. The MANAGEMENT COMMITTEE and the DIRECTORS COMMITTEE have no authority to hear or settle disputes between PARTIES related to individual PERMIT compliance activities.

10. AMENDMENTS TO AGREEMENT

A. This AGREEMENT may be amended or modified if a separate written agreement is approved by the PARTIES, signed and approved by their respective legislative bodies, or in accordance with the delegated authority therefrom.

B. Any amendment or modification to this AGREEMENT that results in a person, PARTY, or firm other than the DISTRICT administering the COUNTYWIDE PROGRAM shall not be effective until 180 days after all PARTIES execute such amendment or modification.

C. The PARTIES will re-evaluate this AGREEMENT with the adoption of each new NPDES MS4 permit and prior to the finalization of any new major funding source for the COUNTYWIDE PROGRAM.

D. If the PERMIT is amended or revised during the term of this AGREEMENT (except in the case of adopting a new TMDL into the PERMIT), then the PARTIES may re-negotiate the financial terms of this AGREEMENT.

11. WITHDRAWAL FROM THE AGREEMENT

A. Any PARTY may withdraw from this AGREEMENT upon giving at least 180 days' written notice to the DISTRICT. The DISTRICT will notify the remaining PARTIES within 10 business days of receipt of any notice of withdrawal.

B. The withdrawing PARTY will remain responsible for paying the costs of COUNTYWIDE PROGRAM activities and work through the end of the fiscal year in which the withdrawal becomes effective.

C. Upon the effective date of a PARTY's withdrawal, the withdrawing PARTY will be individually responsible for complying with all PERMIT requirements established by the REGIONAL BOARD.

D. Upon the effective date of a PARTY's withdrawal, cost allocations to the remaining PARTIES will be recalculated in the following fiscal year.

12. FEDERAL AND STATE REGULATIONS AND GUIDELINES

The PARTIES intend this AGREEMENT to be consistent with the terms of all applicable federal and state stormwater permit regulations or guidelines as presently written, and as may be amended during the term of this AGREEMENT applicable to them. If any provision of this AGREEMENT conflicts with any federal or state regulation or guideline, then the federal or state regulation or guideline will take precedence, and all remaining provisions of this AGREEMENT will remain in force and effect.

13. TERM

This AGREEMENT will be effective September 12, 2023 and will expire one (1) year after the PERMIT expires unless the AGREEMENT is terminated beforehand pursuant to Section 14 or extended by an amendment approved pursuant to Section 10.

14. TERMINATION OF AGREEMENT

A. Notwithstanding anything herein to the contrary, this AGREEMENT may be terminated upon the written consent of two thirds (2/3) of the PARTIES. Any termination pursuant to this Section 14(A) will not be effective until the end of the fiscal year (July 1-June 30) in which the PARTIES decide to terminate this AGREEMENT.

B. If, during any term of this AGREEMENT, the PARTIES or the MANAGEMENT COMMITTEE select a person, PARTY, or firm other than the DISTRICT to administer the COUNTYWIDE PROGRAM, then the DISTRICT may terminate this AGREEMENT upon giving 180 days' written notice to PARTIES.

15. NOTICES

All notices and correspondence will be deemed duly given, if (a) sent by certified U.S. Mail; (b) delivered by hand; (c) deposited in the U.S. Mail, postage prepaid and notice to the addresses of such mailing by phone immediately after deposit in the U.S. Mail; (d) emailed and notice to the recipient by phone immediately after sending the email (if email is provided in the below table); or (e) faxed to the receiving PARTY and confirmation by phone immediately after sending the fax. All notices and correspondence must be sent or delivered to the following:

Ventura County Watershed Protection District Attn: Watershed Protection District Director 800 South Victoria Avenue Ventura, CA 93009 PHONE: (805) 654-2040 FAX: (805) 654-3350 EMAIL:	County of Ventura Attn: Public Works Director 800 South Victoria Avenue Ventura, CA 93009 PHONE: (805) 654-2073 FAX: (805) 654-3952 EMAIL:
City of Camarillo Attn: Public Works Director 601 Carmen Drive Camarillo, CA 93010 PHONE: (805) 388-5307 FAX: (805) 388-5340	City of Fillmore Attn: Municipal Services Director/Utilities Engineer 250 Central Avenue Fillmore, CA 93015 PHONE: (805) 524-3701

EMAIL: dklotzle@cityofcamarillo.org	FAX: (805) 524-5707 EMAIL:
City of Moorpark Attn: City Engineer/Public Works Director 799 Moorpark Avenue Moorpark, CA 93021 PHONE: (805) 517-6255 FAX: (805) 532-2555 EMAIL:	City of Ojai Attn: Public Works Director 401 South Ventura Street Ojai, CA 93023 PHONE: (805) 646-5581 ext. 200 FAX: EMAIL:
City of Oxnard Attn: Public Works Director 305 West Third Street Oxnard, CA 93030 PHONE: (805) 385-8280 FAX: (805) 385-7907 EMAIL: michael.wolfe@oxnard.org	City of Port Hueneme Attn: Public Works Director 250 North Ventura Road Port Hueneme, CA 93041 PHONE: (805) 986-6568 FAX: (805) 986-6660 EMAIL:
City of San Buenaventura Attn: Public Works Director 501 Poli Street Ventura, CA 93001 PHONE: (805) 654-7800 FAX: (805) 652-0865 EMAIL:	City of Santa Paula Attn: Public Works Director P.O. Box 569 Santa Paula, CA 93061-0569 PHONE: (805) 933-4212 FAX: (805) 525-3742 EMAIL:
City of Simi Valley Attn: Public Works Director 2929 Tapo Canyon Road Simi Valley, CA 93063 PHONE: (805) 583-6786 FAX: (805) 583-6300 EMAIL:	City of Thousand Oaks Attn: Public Works Director 2100 Thousand Oaks Blvd. Thousand Oaks, CA 91362 PHONE: (805) 449-2457 FAX: (805) 449-2475 EMAIL: pjorgensen@toaks.org

16. ASSIGNMENT

A PARTY may assign its rights and obligations under this AGREEMENT only with the written consent of every other PARTY, which consent may not be unreasonably withheld.

17. SUCCESSORS IN INTEREST

Except as otherwise provided herein, this AGREEMENT will inure to the benefit of and be binding upon the successors and assigns of the PARTIES. Except as expressly set forth herein, this AGREEMENT is not intended to benefit any person or entity that is not a PARTY to this AGREEMENT.

18. SECTION HEADINGS

Headings at the beginning of each numbered section of this AGREEMENT are solely for convenience and are not a material part of this AGREEMENT.

19. NO AGENCY CREATED

Nothing in this AGREEMENT is intended to create a separate entity or agency and no PARTY to this AGREEMENT is the agent of any other PARTY and nothing in this AGREEMENT will be construed as permitting or authorizing any PARTY to this AGREEMENT to act in any capacity as an agent of the other except as expressly provided herein. Notwithstanding the foregoing, the PARTIES acknowledge that they are entering into this AGREEMENT for their mutual benefit, and the PARTIES agree to execute such further agreements and documents and take such further actions as may be reasonably necessary to implement this AGREEMENT.

20. ENTIRE AGREEMENT

This AGREEMENT contains the entire understanding of the PARTIES with respect to the matters contained herein, and it supersedes all prior oral and written agreements or understandings between the PARTIES with respect to the matters contained herein (including all prior IMPLEMENTATION AGREEMENTS).

21. SEVERABILITY

The invalidity in whole or in part of any provision of this AGREEMENT will not void or affect the validity of the other provisions of this AGREEMENT.

22. INTERPRETATION

The language in all parts of this AGREEMENT will be construed under the laws of the State of California according to its normal and usual meaning and not strictly for or against any PARTY. Exclusive venue for any action involving this AGREEMENT is in Ventura County. In the event of litigation in a United States District Court, exclusive venue is the Central District of California.

23. AUTHORITY TO EXECUTE AGREEMENT

Each PARTY covenants that the individual executing this AGREEMENT on its behalf is duly authorized and empowered to execute this AGREEMENT on behalf of the PARTY.

24. EXECUTION IN COUNTERPARTS

This AGREEMENT may be executed and delivered in any number of counterparts or copies by the PARTIES. When each PARTY has signed and delivered at least one counterpart to the other PARTIES, each counterpart will be deemed an original, and taken together, will constitute one and the same AGREEMENT, which will be binding and effective as to all the PARTIES.

25. ELECTRONIC SIGNATURES

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 Government Code section 16.5 and Civil Code section 1633.7.

IN WITNESS WHEREOF, the PARTIES, duly authorized on behalf of their governing authorities, have executed this Agreement as of the last date written below.

VENTURA COUNTY WATERSHED PROTECTION DISTRICT

By: _____

Name: _____

Title: _____

Date: _____

COUNTY OF VENTURA

By: _____

Name: _____

Title: _____

Date: _____

CITY OF CAMARILLO

By: _____

Name: _____

Title: _____

Date: _____

CITY OF FILLMORE

By: _____

Name: _____

Title: _____

Date: _____

CITY OF MOORPARK

By: _____

Name: _____

Title: _____

Date: _____

CITY OF OJAI

By: _____

Name: _____

Title: _____

Date: _____

CITY OF OXNARD

By: _____

Name: _____

Title: _____

Date: _____

CITY OF PORT HUENEME

By: _____

Name: _____

Title: _____

Date: _____

CITY OF SAN BUENAVENTURA

By: _____

Name: _____

Title: _____

Date: _____

CITY OF SANTA PAULA

By: _____

Name: _____

Title: _____

Date: _____

CITY OF SIMI VALLEY

By: _____

Name: _____

Title: _____

Date: _____

CITY OF THOUSAND OAKS

By: _____

Name: _____

Title: _____

Date: _____

APPENDIX A

VENTURA COUNTY STORMWATER PERMIT IMPLEMENTATION AND COST-SHARING AGREEMENT

COUNTYWIDE PROGRAM ACTIVITIES AND RESPONSIBILITIES

The DISTRICT will perform and provide the following COUNTYWIDE PROGRAM activities, services, and/or work on behalf of the PARTIES:

1. MANAGEMENT COMMITTEE Administration
   - Convene, chair, staff and provide administrative support (e.g., preparation of meeting agenda and minutes) for MANAGEMENT COMMITTEE meetings.
   - Set time schedules for the performance of activities.
   - Provide the REGIONAL BOARD information related to the COUNTYWIDE PROGRAM.
   - Track and update the PARTIES on REGIONAL BOARD and EPA regulations and guidance.
   - Participate as a member, on behalf of the PARTIES, in the Southern California Coastal Water Research Project (SCCWRP), California Stormwater Quality Association (CASQA), and Southern California Stormwater Monitoring Coalition (SMC).
   - Prepare legislative and regulatory response/comment letters on behalf of the PARTIES.
   - Distribute materials and information related to the PERMIT to the PARTIES as needed.

2. PERMIT and COUNTYWIDE PROGRAM Administration
   - Provide technical and administrative support related to implementation of the PERMIT.
   - Serve as liaison between the PARTIES and the REGIONAL BOARD
   - Procure contractors and consultants for administration of the COUNTYWIDE PROGRAM
     - The Management Committee may direct the DISTRICT to procure any work, services, goods, or materials greater than $50,000 through a competitive process.
   - Provide technical leadership on the COUNTYWIDE PROGRAM and compliance with PERMIT requirements.
   - Prepare legislative and regulatory response/comment letters on behalf of the PARTIES.
   - Provide public outreach on PERMIT requirements, including, at a minimum, public outreach that satisfies the PERMITS public outreach elements and requirements.

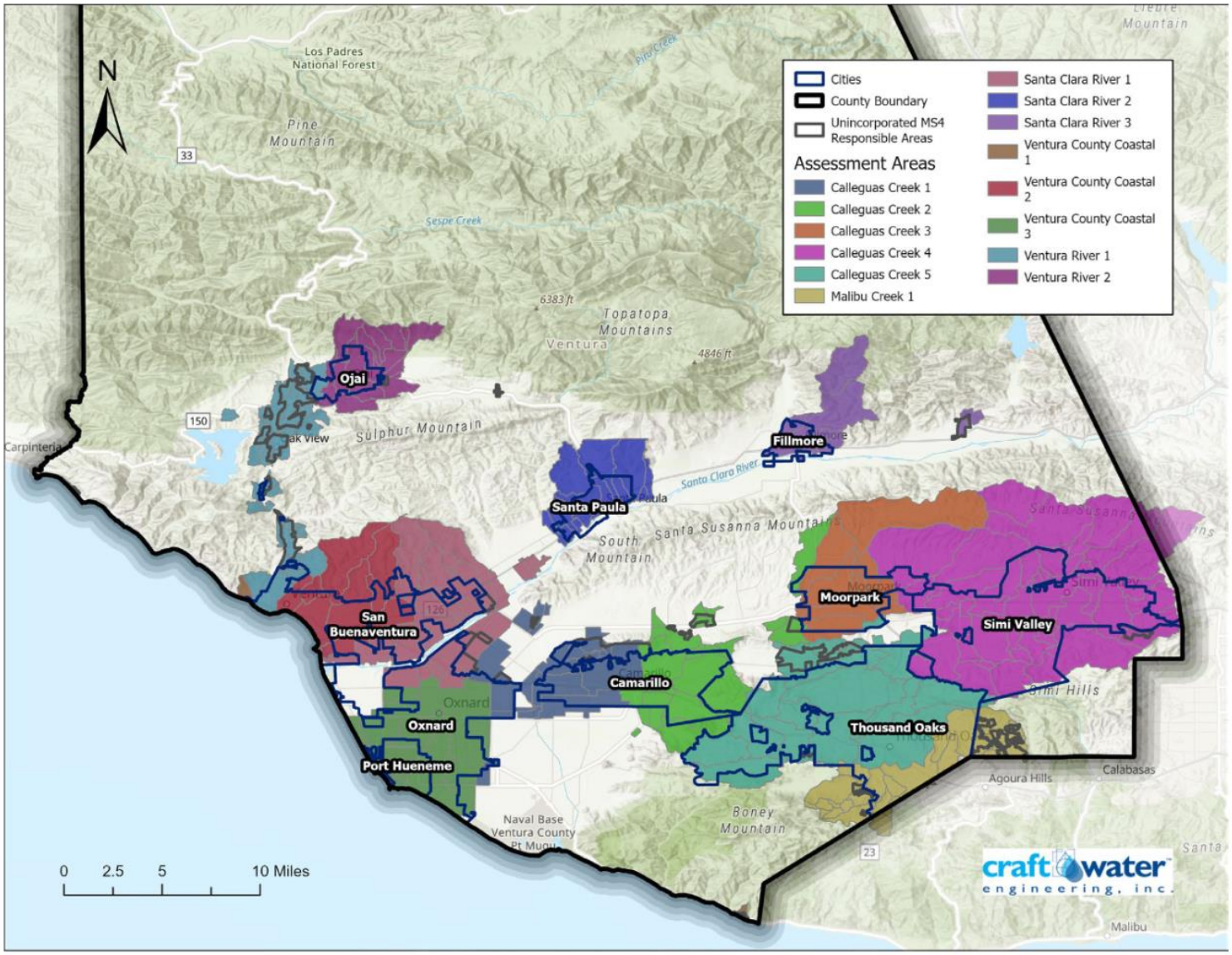
3. Fiscal and Accounting

- Prepare and track annual budgets for the COUNTYWIDE PROGRAM.
  - By February 1 each year, a projected annual budget by activity will be prepared for implementation of the following fiscal year's COUNTYWIDE PROGRAM, including but not limited to labor and fixed costs, for the MANAGEMENT COMMITTEE's review and approval.
  - Accounting tracking mechanisms will be implemented to report and describe annual COUNTYWIDE PROGRAM expenditures and the PARTIES' annual contributions/payments (including revenues collected for each PARTY through the BA PROGRAM.
  - Each year, COUNTYWIDE PROGRAM expenditures will be reconciled against the approved budget. Funds not expended for the COUNTY WIDE PROGRAM will be refunded to the PARTIES in the subsequent fiscal year.
- Coordinate and manage the collection of assessments per the BA PROGRAM on behalf of the PARTIES participating in the BA PROGRAM.

4. Monitoring and Reporting

- Implement COUNTYWIDE PROGRAM monitoring, including but not limited to stormwater outfall-based monitoring, mass emission/receiving water monitoring.
  - NOTE: The PARTY, person, or firm administering the COUNTYWIDE PROGRAM shall not be responsible for total maximum daily load ("TMDL") monitoring and non-stormwater discharge screening and monitoring.
- Compile and submit annual and monitoring reports related to the COUNTYWIDE PROGRAM.
- Prepare Reports of Waste Discharge (ROWD).
- Coordinate the PARTIES review of all reports and materials to be submitted to the REGIONAL BOARD or other local governments and regulatory agencies.
- Provide the PARTIES trainings on the PERMIT, the COUNTYWIDE PROGRAM, and the preparation of annual and monitoring reports related to the COUNTYWIDE PROGRAM as needed.

Ventura County Regional Watershed Map



DRAFT VENTURA COUNTY STORMWATER PERMIT IMPLEMENTATION AND COST-SHARING AGREEMENT A-8537

Badaoui Mouderres, Technical Services/ Water Quality Manager
Public Works Department - Wastewater

City Council
September 05, 2023

CITY OF OXNARD CALIFORNIA

RECOMMENDATION

That the City Council approve and authorize the Mayor to sign, once finalized, the Ventura County Stormwater Permit Implementation and Cost-Sharing Agreement (Agreement) with the County of Ventura, the Ventura County Watershed Protection District, and the Cities of Camarillo, Fillmore, Moorpark, Ojai, Port Hueneme, San Buenaventura, Santa Paula, Simi Valley, and Thousand Oaks.

BACKGROUND

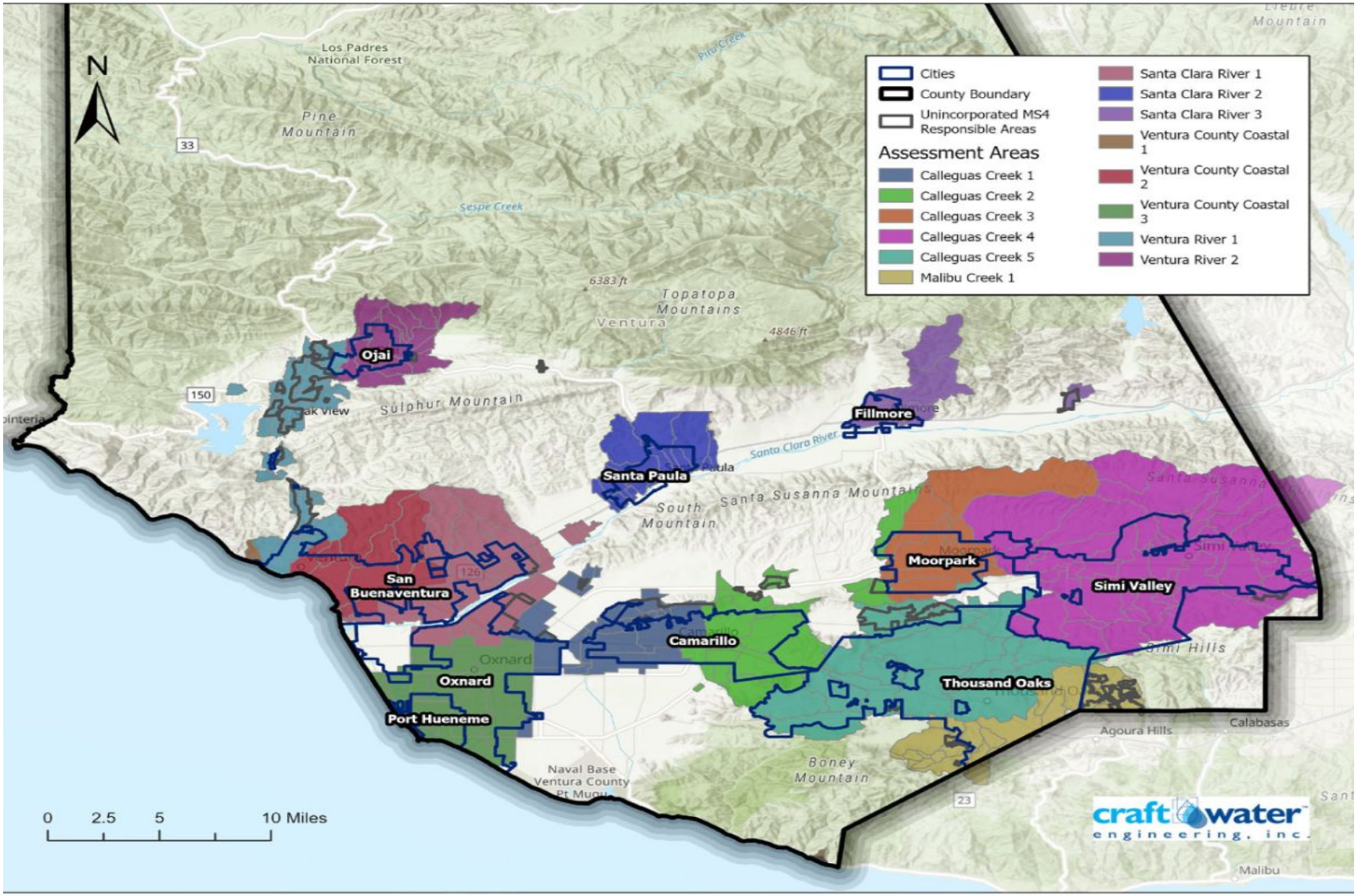
Municipal Separate Storm Sewer System (MS4)

MS4- structures designed to gather stormwater and discharge it into local streams, rivers and the ocean.

Watersheds- land areas that channel rainfall to creeks, streams, and rivers and outflow points to the ocean.

Municipal- local government responsible for the administration of the developed areas that covers the MS4's areas.

Oxnard- responsible for maintaining MS4 in jurisdiction areas.



Ventura County Watershed Assessment Areas

BACKGROUND

Drainage Channels Auto Center (Left), 5th St (Right)

BACKGROUND

Tsumas Creek discharge into Ormond Lagoon

National Pollutant Discharge Elimination System (NPDES)

- Created in 1972 by the Clean Water Act
- Permit system that regulates the discharge of pollutants from MS4s into Waters of the United States (WOTUS)
  - Prohibits discharging into WOTUS without a NPDES Permit
  - Contains discharge limits, monitoring and reporting requirements
- State Water Resources Control Board oversees NPDES
- Regional Water Quality Control Board (Regional Board) administers NPDES permits and enforces regulations

Consolidated NPDES Permit

Historically, each responsible party that owned and operated an MS4 held their own individual NPDES Permit.

In 1992, the following individual MS4 “Parties” jointly filed and received a joint NPDES Permit with the Regional Board.

County of Ventura	VC Watershed Protection District	Camarillo	Fillmore
Moorpark	Ojai	Oxnard	Port Hueneme
San Buenaventura	Santa Paula	Simi Valley	Thousand Oaks

Consolidated NPDES Permit continued

- Order No. R4-2021-0105
  - Went into effect on September 11, 2021
  - Became the current MS4 NPDES Permit
  - Designated the individual MS4 “Parties” as Co-Permittees

- The current MS4 NPDES permit
  - Supersedes the previous permit
  - Covers Ventura and Los Angeles Counties
  - Covers all incorporated cities within the Counties
  - Required consideration of a Watershed Management Program (WMP)

Ventura County Stormwater Permit Implementation and Cost Sharing Agreement

- Consolidated NPDES Permit Agreements
  - Established since 1992
  - Manage the Ventura Countywide Stormwater Quality Management Program (VCSQMP)
- VCSQMP has the following goals
  - Comply with EPA and Regional Board permits and regulations
  - Protect and improve surface water quality in Ventura County
- Current Agreement expires September 11, 2023
- New Agreement will expire September 11, 2027

DISCUSSION

- Current NPDES permit required a decision
  - To create a Watershed Management Program (WMP)
  - Co-Permittees decide to create a WMP
- The County and Cities work on development of draft WMP
  - Select Craftwater to facilitate development of a WMP
  - Work on coordination of a Monitoring Program
  - File corresponding Notices of Intent
- Major deadlines for the WMP are as follows:
  - September 11, 2021: Permit Effective Date
  - December 13, 2021: File Notice of Intent for WMP
  - December 13, 2021: File Notice of Intent for Monitoring Plans
  - September 11, 2023: Submit WMP and Monitoring Program

DISCUSSION

- WMP
  - Combination of rigorous data analysis and modeling
  - Require technical engineering and stakeholder coordination
  - Provide a clear pathway towards MS4 Permit compliance
  - Improve stormwater and receiving water body quality
- Compliance strategy minimum control measures (MCM's)
  - Street sweeping
  - Low impact development (LID) required by private development
  - Trash capture through stormwater catch basin trash excluders
- The multi-party approach provides
  - Cost savings
  - Regional cooperation
  - Access to subject matter expertise

FINANCIAL IMPACT

- No specific Fiscal Impact to approving this Agreement
  - City's Stormwater budget covers current annual costs
- Current Funding for the City consists of
  - Countywide Benefit Assessment (BA) program
  - City's General Fund
- Current City Costs: ~ $300,000 - $400,000 per year
- Future additional cost projections
  - Are Rough Order of Magnitude (ROM)
  - Currently estimated between $939,000 - $1,659,000 per year
  - Include enhanced management, operation and maintenance and source contamination investigations

FINANCIAL IMPACT

- One time costs to may be required
  - Estimates are not meant to provide a set minimum or maximum
  - Currently the one time cost estimate to be nearly $5,000,000

Watershed	Estimated Annual Contributions	One-Time Payments
Calleguas Creek	$421,000 - $625,000	$4,782,000
Santa Clara River	$158,000 - $314,000	$0
Ventura County Coastal	$360,000 - $720,000	$0
TOTAL	**$939,000 - $1,659,000**	**$4,782,000**

CITY OF
OXNARD
CALIFORNIA

End of Presentation

CITY COUNCIL AGENDA REPORT

REPORTS
AGENDA ITEM NO. N.3

DATE: September 5, 2023

TO: City Council

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

SUBJECT: Public Project Agreement 32400076 with Toro Enterprises, Inc. for Neighborhood Street Resurfacing Kamala Park And Bartolo Square South Project, Specification No. PW 23-104. (10 mins)

RECOMMENDATION

That the City Council approve and authorize:

1. A total of $4,170,133.72 in Project funds for the Neighborhood Street Resurfacing Kamala Park And Bartolo Square South Project, Specification No. PW 23-104 (Project No. C2209);
2. The Mayor to execute an Agreement with Toro Enterprises, Inc. in the amount of $3,475,111.72 for the Project;
3. Authorize a Project contingency amount of $347,511 (10%) with Toro Enterprises, Inc. for a total not to exceed value of $3,822,622.72 for the Project; and
4. A Project allocation amount of $347,511 (10%) 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.)

Please click the following link to view the required Measure M pre-recorded presentation video:
https://youtu.be/5M7mFzhwBsg

BACKGROUND

The Neighborhood Street Resurfacing project is an ongoing Capital Improvement Program (CIP) project to address multiple locations throughout the City over multiple years. This current bid package is for the Kamala Park and Bartolo Square South neighborhoods. The majority of the streets within these two neighborhoods have reached a point in their life-cycle requiring preventive and/or corrective work. The average Pavement Condition Index score for these two neighborhoods is 50-60 and the existing asphalt concrete pavement is in need of resurfacing. Pavement preservation in the form of Microsurfacing will be applied to good streets, those that have low to moderate distress, to extend pavement life.

When the City Council originally approved the FY 2022-2027 Capital Improvement Program budget at the May 3, 2022 City Council meeting, the locations planned for FY 2022-23 and FY 2023-24 were to be partially funded by Bonds (up to $13M). However, due to active litigation, an alternate funding source (one-time Measure O funding) was approved by the City Council. However, the alternate funding source was not equal to the originally proposed bond funding.

Capital Improvement Program (CIP) Reference:

Project No. **C2209** – Neighborhood Street Resurfacing Kamala Park and Bartolo Square South, Specification No. PW 23-104 - CIP 2022-2027 - Adopted May 3, 2022 – Page 62.

DISCUSSION

The specific work for this Project includes milling of existing asphalt concrete pavement, placement and compaction of asphalt rubberized hot-mix (ARHM) and installing asphalt rubber aggregate membrane (ARAM) interlayer, micro-surfacing and crack filling, excavation and reconstruction of asphalt pavement failed areas, concrete repairs, adjusting utility covers to finished grade, removing and replacing street name signs, traffic striping, and all other appurtenant and associated work in accordance with the Contract Documents.

The work is tentatively scheduled to begin in October 2023 and absent any weather or unforeseen delays it will continue into February 2024 (90 working days). Staff will work closely with the Bartolo Square and Kamala Neighborhood Council to keep them informed of the schedule and will also work closely with the neighborhoods 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 June 8, 2023, and bids were due and opened on June 28, 2023. The City received the following bid:

Toro Enterprises, Inc.: $3,475,111.72

The sole bid from Toro Enterprises, Inc. is responsive to the City's NIFB. Following this determination, procurement staff reviewed all documentation received from Toro Enterprises, 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.

Because we received only one bid, staff reviewed recent bids from the County of Ventura and found that the unit prices in Toro's bid are similar or lower indicating that the bids received are consistent with what the market is offering. There has also been an increase of 22% between June of 2021 and June of 2023 to the California Construction Cost Index that is consistent with current inflation trends. Staff expects that rebidding would result in higher costs and impact execution of planned resurfacing for this fiscal year. Thus, staff recommends that the City Council award the contract for this Project to Toro Enterprises, Inc.

In addition to the project award amount of $3,475,111.72, Staff recommends authorizing $695,022 for the project, which includes $347,511 for project contingency (10% of the contract costs) and $347,511 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 $4,170,133.72.

The project is categorically exempt from CEQA under CEQA Guidelines Section 15301(c) because it consists of minor alterations of existing structures and facilities and will not have a significant effect on the environment, either individually or cumulatively.

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 Project shall not exceed $4,170,133.72 which includes the construction agreement, contingency and project allocation. The Neighborhood Street Resurfacing Kamala Park And Bartolo Square South Project No. C2209 has a current total available project budget balance of approximately $11,160,000 with $660,000 from the General Fund (101) and $10,500,000 from the Measure O Fund (104).

NEIGHBORHOOD STREET RESURFACING PROJECT (C2209)		
		Contract: $3,475,111.72 **Contingency: $347,511.00** **Construction Management: $347,511.00** **Total: $4,170,133.72**
Fund Number	**Fund Name**	**Available Project Budget**
101	General Fund	$660,000
104	Measure O	$10,500,000
TOTAL AVAILABLE PROJECT BUDGET		**$11,160,000**

For Fiscal Year 2023-24 Public Works plans to put forward five resurfacing project locations (arterial and residential streets) with a total budget of about $20.8 million. The ability to execute all five project locations will largely depend on the bid market. The bid advertisement of this first of five project locations generated a response from one bidder. The lack of competition and continued increase due to inflation is driving up the cost of infrastructure projects. If this trend continues, there may not be sufficient funds to complete all five project locations with the budgeted funds.

FY 2023-24 RESURFACING PROJECTS		
C2209 Neighborhood Street Resurfacing (CIP Page 62)		
Fund Number	**Fund Name**	**Project Budget**
104	Measure O	$10,500,000
C2205 Arterial Street Resurfacing (CIP Page 47)		
Fund Number	**Fund Name**	**Project Budget**
185	RMRA	$4,000,000
101	General Fund	$4,000,000
SUBTOTAL PROJECT BUDGET		**$8,000,000**
C2111 Citywide Alley Resurfacing (CIP Page 49)		
Fund Number	**Fund Name**	**Project Budget**
104	Measure O	$2,250,000

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 32400076 TORO Enterprises Inc.
2. Presentation

CONTRACT

CITY OF OXNARD CONTRACT FOR NEIGHBORHOOD STREET RESURFACING KAMALA PARK AND BARTOLO SQUARE SOUTH, SPECIFICATION NO. PW 23-104

THIS CONTRACT ("Contract") is made and entered this 5th day of September, 2023 ("Effective Date"), by and between the CITY OF OXNARD, a California municipal corporation ("City") and Toro Enterprises, Inc. ("Contractor"). Contractor's license number is 710580.

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 Neighborhood Street Resurfacing - Kamala Park And Bartolo Square South, Specification No. PW 23-104 ("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 three million four hundred seventy-five thousand, one hundred eleven dollars and seventy two cents ($3,475,111.72) 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 date first written above.

CITY OF OXNARD

☒ John C. Zaragoza, Mayor[1] _____ Date
☐ Purchasing Manager

ATTEST:

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

APPROVED AS TO FORM:

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

TORO ENTERPRISES, INC.

Sean Castillo, C.E.O. [2] _____ Date

Jerry Hannigan, Secretary _____ 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 NEIGHBORHOOD STREET RESURFACING KAMALA PARK AND BARTOLO SQUARE SOUTH, SPECIFICATION NO. PW 23-104

Bidder's Name: TORO ENTERPRISES,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 Project Manager at the following prices:

ITEM NO.	DESCRIPTION	PAYMENT REF.	UNIT OF MEASURE	EVALUATION QUANTITY	UNIT PRICE	EXTENDED AMOUNT
1	Mobilization/Demobilization (not to exceed 5% of the Total Bid Price)	1001-3	LS	LUMP SUM	150,000.-	150,000.-
2	Traffic Control And Public Convenience And Safety	1505-4	LS	LUMP SUM	495,000.-	495,000.-
3	Storm Water Pollution Prevention Plan	1800-3	LS	LUMP SUM	22,000.-	22,000.-
4	Cold Mill AC Pavement (2" Max.)	1110-3	SQYD	23,884	4.20	100,312.80
5	Unclassified Excavation	1120-4	CY	102	120.-	12,240.-
6	Class 2 Aggregate Base	1130-4	TON	85	115.-	9,775.-
7	Asphalt Concrete, Type III (DGAC-B2 PG 64-10)	1150-10	TON	100	254.-	25,400.-
8	Asphalt Concrete, Type III (DGAC-C2 PG 64-10)	1150-10	TON	326	182.-	59,332.-
9	Asphalt Concrete, Type III (DGAC-D2 PG 64-10)	1150-10	TON	1,185	200.-	237,000.-
10	Asphalt Rubber Aggregate Membrane (ARAM)	1151-4	SQYD	38,400	5.36	205,824.-
11	Asphalt Rubber Hot Mix (ARHM-GG-C PG 64-16)	1152-10	TON	4,970	150.-	745,500.-
12	Crack Seal	1155-4	LB	10,200	5.65	57,630.-
13	Micro-Surfacing	1163-7	TON	1,032	485.-	500,520.-
14	Remove And Replace PCC Sidewalk, 4" Thick	1174-6	SQFT	3,200	15.-	48,000.-

ITEM NO.	DESCRIPTION	PAYMENT REF.	UNIT OF MEASURE	EVALUATION QUANTITY	UNIT PRICE	EXTENDED AMOUNT
15	Remove And Replace PCC Commercial Driveway, 8" Thick	1174-6	SQFT	1,355	43.50	58,942.50
16	Remove And Replace PCC Residential Driveway, 6" Thick	1174-6	SQFT	1,800	39.-	70,200.-
17	Remove And Replace PCC Cross Gutter And Spandrel	1174-6	SQFT	4,006	40.-	160,240.-
18	Remove And Replace PCC Curb and Gutter (Type A2-6)	1174-6	LF	1,220	141.-	172,020.-
19	Remove And Replace PCC Rolled Curb and Gutter Per Page 2, Appendix C	1174-6	LF	200	146.-	29,200.-
20	Remove And Replace PCC Curb Ramp With Detectable Warning Surface Tiles, 4" Thick	1174-6	SQFT	1,850	24.-	44,400.-
21	Install 24" Root Barrier Panel	1174-6	LF	40	101.-	4,040.-
22	Adjust Water Valve Frame And Cover To Finished Grade	1185-4	EA	63	1,185.-	74,655.-
23	Adjust Manhole Frame And Cover To Finished Grade	1185-4	EA	32	1,005.-	32,160.-
24	Adjust Survey Monument Frame and Cover To Finished Grade	1185-4	EA	3	1,500.-	4,500.-
25	Install Pavement Markings in Thermoplastic	1515-4	SQFT	5,113	6.55	33,490.15
26	Install Detail 2 In Thermoplastic	1515-4	LF	1,890	0.71	1,341.90
27	Install Detail 22 In Thermoplastic	1515-4	LF	8,086	1.97	15,929.42
28	Install Detail 29 In Thermoplastic	1515-4	LF	315	~~328.-~~ $3.28*	1,033.20
29	Install Detail 38 In Thermoplastic	1515-4	LF	725	1.67	1,210.75
30	Install 3" Double White Solid Parking Stall Stripe In Thermoplastic	1515-4	LF	630	7.86	4,951.80
31	Install Blue RPM	1515-4	EA	108	8.15	880.20
32	Install Or Remove and Replace Street Name Sign Per City Std Plate 206	1530-4	EA	90	232.-	20,880.-

*Sean Castillo, President of Toro Enterprises, Inc. confirmed unit price is $3.28 per LF via Clarification No. 1 Response received 6/30/23.

ITEM NO.	DESCRIPTION	PAYMENT REF.	UNIT OF MEASURE	EVALUATION QUANTITY	UNIT PRICE	EXTENDED AMOUNT
33	Remove, Relocate, Or Re-Install Traffic Sign Per City Std Plate 204	1530-4	EA	34	190.-	6,460.-
34	Install Or Remove and Replace Sign Post Per City Std Plate 203/204	1530-4	EA	39	197.-	7,683.-
35	Furnish And Install Detectable Warning Surface Tiles	1905-4	SQFT	1,248	45.-	56,160.-
36	Grind PCC Concrete	1174-6	SQFT	100	62.-	6,200.-
					TOTAL BID PRICE:	$ 3,475,111.72

Note: 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. Cost of all 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: $ 3,475,111.72

TOTAL BID PRICE IN WORDS: Three Million Four hundred seventy Five Thousand One hundred Eleven dollars and Seventy Two cents

Contractor must complete all Work within ninety (90) Working Days of the City's Notice to Proceed.

Signature: _____ Title: PRESIDENT Date: 6/23/23

SEAN CASTILLO

Bidder acknowledges receipt of all addenda

Addendum:	Date Received:	Addendum:	Date Received:
#01	None	#05	
#02		#06	
#03		#07	
#04		#08	

Exhibit INS-G with Pollution

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.
e. Contractors Pollution Liability and Errors & Omissions applicable to the work being performed, with a limit no less than $2,000,000 per claim or occurrence and $2,000,000 aggregate per policy period of one year.

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 <u>and</u> CG 2037).**

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

6. 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.

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** [x] COMMERCIAL GENERAL LIABILITY [ ] 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 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 Contractors Pollution Liability and Contractors Pollution Errors & Omissions				Minimum coverage $1,000,000 Each consultant/ & listed sub-consultant $500,000 PER CLAIM / OCCURRENCE $2,000,000 GENERAL AGGREGATE $2,000,000

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

CERTIFICATE HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

CANCELLATION

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

AUTHORIZED REPRESENTATIVE:

❒ Broker/Agent ❒ Underwriter ❒ _____

Signature _____
(original signature required)

Telephone: ( ) Date Signed _____

SAMPLE

Agreement No. 32400076

GENERAL LIABILITY SPECIAL ENDORSEMENT
FOR THE CITY OF OXNARD (the ACity@)

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

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		
❒ _____		
❒ _____		

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

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

1. **INSURED.** The City, its officers, agents, employees and volunteers are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
2. **CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insureds 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 companys 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 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 ACity@)

SUBMIT IN DUPLICATE

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

PRODUCER

Telephone:

NAMED INSURED

SAMPLE

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

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

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

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

❒ COMMERCIAL AUTO POLICY

❒ BUSINESS AUTO POLICY

❒ OTHER

OTHER PROVISIONS

LIMIT OF LIABILITY

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

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

Name: _____

Address: _____

_____

Telephone: (____) _____

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

1. **INSURED.** The City, its officers, agents, volunteers and employees are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
2. **CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insureds 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 companys 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 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 _____

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 TORO ENTERPRISES, INC., 2101 E. VENTURA BOULEVARD, OXNARD, CA 93036 ("Principal")
(Name and address of Contractor)

a contract (the "Contract") for the Work described as the Neighborhood Street Resurfacing - Kamala Park And Bartolo Square South Project, Specification No. PW 23-104.

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 three million four hundred seventy-five thousand, one hundred eleven dollars and seventy two cents ($3,475,111.72), 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"
_____	_____
_____	_____
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 TORO ENTERPRISES, INC., 2101 E. VENTURA BOULEVARD, OXNARD, CA 93036 ("Principal")
(*Name and address of Contractor)*

a contract (the "Contract") for the Work described as the Neighborhood Street Resurfacing - Kamala Park And Bartolo Square South Project, Specification No. PW 23-104.

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 three million four hundred seventy-five thousand, one hundred eleven dollars and seventy two cents ($3,475,111.72), 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 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 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.

AGREEMENT 32400076 WITH TORO ENTERPRISES, INC. FOR NEIGHBORHOOD STREET RESURFACING KAMALA PARK AND BARTOLO SQUARE SOUTH PROJECT PW 23-104

Michael L. Wolfe, Public Works Director
Public Works Department

City Council
September 5, 2023

CITY OF OXNARD CALIFORNIA

RECOMMENDATION

That the City Council approve and authorize:

- A total of $4,170,133.72 in Project funds for the Neighborhood Street Resurfacing Kamala Park and Bartolo Square South Project, Specification No. PW 23-104 (Project No. C2209);
- The Mayor to execute an Agreement with Toro Enterprises, Inc. in the amount of $3,475,111.72 for the Project;
- Authorize a Project contingency amount of $347,511 (10%) with Toro Enterprises, Inc. for a total not to exceed value of $3,822,622.72 for the Project; and
- A Project allocation amount of $347,511 (10%) for engineering, inspection, survey and project management for the Project.

BACKGROUND

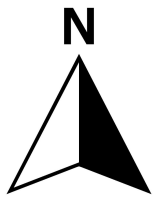
Kamala Park & Bartolo Square South Neighborhood Street Resurfacing Project

- The Neighborhood Street Resurfacing project is an ongoing Capital Improvement Program (CIP) project to address multiple locations throughout the City over multiple years

- At this time, the majority of streets within these two neighborhoods require preventative and/or corrective work (Average PCI between 50 - 60) and are in need of resurfacing

- Pavement preservation in the form of Microsurfacing will be applied to “good” streets (those that have low to moderate distress) to extend pavement life

Kamala Park & Bartolo Square South Neighborhood Project Map Area



Existing Street Conditions within the Kamala Park Neighborhood:

Existing Street Conditions within the Bartolo Square South Neighborhood:

Kamala Park & Bartolo Square South Street Resurfacing Project

- Notice inviting formal bids (NIFB) for the project was published on June 8, 2023 with bids due and opened on June 28, 2023
- Only 1 bid was received and evaluated:

Toro Enterprises, Inc.	$3,475,111.72

- The sole bid from Toro Enterprises, Inc. was found to be responsive to the City's NIFB
- Staff reviewed recent bids from the County of Ventura and verified the California Construction Cost Index and found this project to be consistent with current pricing and inflation trends

DISCUSSION

Total cost for the Project is $**4,170,133.72** which includes:

- Agreement 32400076 with Toro Enterprises, Inc. in the amount of **$3,475,111.72**
- Project contingency of **$347,511 (10%)**
- Engineering, inspection, survey and project management (EISPM) of **$347,511 (10%)**

FY 2023-24 Resurfacing Projects

- Public Works plans to put forward 5 resurfacing projects locations (arterial and residential streets) with a total budget of about $20.8 Million
- The lack of local competition and continued cost increases due to inflation is driving up the cost of infrastructure projects
- This trend, combined with the active Bond litigation, means there may not be sufficient funds to complete all 5 planned project locations with the budgeted Fiscal Year funds

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End of Presentation