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
PUBLIC WORKS AND TRANSPORTATION COMMITTEE
Council Chambers, 305 West Third Street
November 12, 2024
Regular Meeting - 8:30 to 10:00 PM

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

1. Dial Phone Number: (888) 475-4499
2. Enter Meeting ID: 878 5626 2307
3. Passcode: 771783

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 no later than 3 p.m. on the day of the meeting by using the form available at **www.oxnard.org/citymeetings**.
   b. Submit an email to **cityclerk@oxnard.org** no later than 3 p.m. on the day of the meeting (indicate the agenda item number in the subject line). All email correspondence will be forwarded to the legislative body prior to the start of the meeting and made part of the legislative record.
   c. Contact the City Clerk's Office at (805) 385-7803 to submit your request.

3. PROVIDING PUBLIC COMMENTS REMOTELY DURING THE MEETING

In compliance with the Americans with Disabilities Act, if you require special assistance to participate in a meeting, please contact the City Clerk's Office at 385-7803. Notice at least 72 hours prior to the meeting will enable the City to reasonably arrange for your accessibility to the meeting.
Agenda Item Time Estimates include: (Minutes for Presentation + Council Discussion + Public Comment)

a. To provide public comment during the meeting dial (888) 475-4499 and enter the Meeting ID and Passcode listed above as the Zoom details for this meeting. When the presiding officer announces the particular item on the agenda you want to speak on, press *9 to raise your hand while in the zoom waiting room. Once called on, press *6 to unmute your phone.
b. Public comments on agenda items will be taken following the announcement of the item. After the item is announced, members of the public may register or otherwise be recognized for the purpose of providing public comment.

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

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

A. ROLL CALL, POSTING OF AGENDA, FLAG SALUTE
Consideration of Teleconference Participation pursuant to Assembly Bill 2449.

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

C. CONSENT AGENDA

1. City Clerk Department
SUBJECT: Approval of Minutes.
RECOMMENDATION: That the Public Works & Transportation Committee approve the minutes of the October 22, 2024 regular meeting as presented.
Contact: Rose Chaparro, (805) 385-7805

D. REPORTS

1. Public Works Department
SUBJECT: Intelligent Transportation System (ITS) Update. (20 minutes)
RECOMMENDATION: That the Public Works and Transportation Committee:

1. Receive a presentation on the Intelligent Transportation System; and
2. Recommend that the item be forwarded to the City Council to be heard as an Appointment Item.

(Presentation will be live upon consultant's request.)
Contact: Michael Wolfe, (805) 385-8055

2. Public Works Department

SUBJECT: Agreement 32500218 with Garcia's Landscaping Maintenance, Inc. for On-Call Landscape Systems Maintenance and Minor Repair Services, Specification No. 25-10. (10 minutes)
RECOMMENDATION: That the Public Works and Transportation Committee recommend that the City Council approve and authorize an Agreement with Garcia's Landscaping Maintenance, Inc. for an initial term of three years from December 4, 2024, to December 3, 2027, with the option for two consecutive one-year period extensions ending December 3, 2029, for a total not-to-exceed amount of $3,000,000 for citywide On-Call Landscape Systems Maintenance and Minor Repair Services.

Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/Lqf651gpoAg
Contact: Michael Wolfe, (805) 385-8055

3. Public Works Department
SUBJECT: Professional Services Agreements 32500224 with Kimley-Horn and Associates, Inc., 32500226 with Fehr & Peers and 32500223 with LSY Enterprise, Inc. for as-needed Traffic-Related and Planning Services. (10 minutes)
RECOMMENDATION: That the Public Works and Transportation Committee recommend that the City Council approve and authorize the Mayor to execute the following:

1. An Agreement with Kimley-Horn and Associates, Inc. for an initial term of three years from December 4, 2024, to December 3, 2027, with the option for two consecutive one-year period extensions ending December 3, 2029, for a total not-to-exceed amount of $1,500,000 for as needed Traffic Signal Operations and Engineering Services Specification No. PW 25-18;
2. An Agreement with Fehr & Peers for an initial term of three years from December 4, 2024, to December 3, 2027, with the option for two consecutive one-year period extensions ending December 3, 2029, for a total not-to-exceed amount of $1,500,000 for as needed Transportation Planning and Grant Writing Services Specification No. PW 25-19; and
3. An Agreement with LSY Enterprise, Inc. for an initial term of three years from December 4, 2024, to December 3, 2027, with the option for two consecutive one-year period extensions ending December 3, 2029, for a total not-to-exceed amount of $1,500,000 for as needed General Traffic Engineering Services Specification No. PW 25-20.

Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/IAx4kkV2Oy0
Contact: Michael Wolfe, (805) 385-8055

E. ITEMS FOR FUTURE AGENDAS

F. ADJOURNMENT

PUBLIC WORKS AND TRANSPORTATION COMMITTEE
AGENDA REPORT

CONSENT AGENDA
AGENDA ITEM NO. C.1

DATE: November 12, 2024

TO: Public Works and Transportation Committee

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

SUBJECT: Approval of Minutes.

RECOMMENDATION

That the Public Works & Transportation Committee approve the minutes of the October 22, 2024 regular meeting as presented.

BACKGROUND

Approval of Minutes.

STRATEGIC PRIORITIES

This agenda item is a routine operational item.

FINANCIAL IMPACT

There is no financial impact.

Prepared by: Rose Chaparro, City Clerk

ATTACHMENTS

1. MINUTES 10 22 2024 Public Works & Transportation

MINUTES
OXNARD CITY COUNCIL
PUBLIC WORKS AND TRANSPORTATION COMMITTEE
Regular Meeting
October 22, 2024

A. ROLL CALL, POSTING OF AGENDA, FLAG SALUTE

At 8:30 p.m., Chair Bert E. Perello called to order the regular meeting of the Oxnard City Council Public Works & Transportation Committee in the City Hall Council Chambers at 305 W. Third Street, Oxnard, California. The Assistant City Clerk called the roll and announced the posting of the agenda. Chair Bert Perello, Member Arthur Valenzuela, and Member John C. Zaragoza were present in person.

Consideration of Teleconference Participation pursuant to Assembly Bill 2449.

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

C. CONSENT AGENDA

1. City Clerk Department
SUBJECT: Approval of Minutes.
RECOMMENDATION: That the Public Works & Transportation Committee approve the minutes of the October 8, 2024 regular meeting as presented.

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

D. REPORTS

1. Public Works Department
SUBJECT: Annual Purchase Orders with Rockwell Engineering & Equipment Co. for Wastewater Equipment and Supplies.
RECOMMENDATION: That the Public Works and Transportation Committee recommend that the City Council approve and authorize the Purchasing Agent to execute annual Purchase Orders with Rockwell Engineering & Equipment Co. (Rockwell) for a total amount not to exceed $600,000 through June 30, 2026, for the purchase of wastewater pumps and related equipment for the Wastewater Division

Timothy Beaman, Assistant Public Works Director presented and answered the Committee's questions. No public comments were received.

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

2. Public Works Department
SUBJECT: Trade Services Agreement 32500200 with Taft Electric Company for On-Call Traffic Signal Repair & Maintenance Services, Specification No. PW 25-26.
RECOMMENDATION: That the Public Works and Transportation Committee recommend that the City Council approve and authorize an Agreement with Taft Electric Company for an initial one-year and 10-day term from November 20, 2024, to November 30, 2025, with the option for four consecutive one-year period extensions for a final term ending November 30, 2029, for a total amount not to exceed $500,000 for on-call traffic signal repairs and services.

Morgan Kessler, City Engineer presented and answered the Committee's questions. No public comments were received.

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

3. Public Works Department
SUBJECT: Update on Mobile Car Washing Regulations and Enforcement.
RECOMMENDATION: That the Public Works and Transportation Committee receive and file an update on mobile car washing regulations and enforcement.

Jeff Pengilley, Community Development Director and Timothy Beaman, Assistant Public Works Director presented and answered the Committee's questions. No public comments were received.

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

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

F. ADJOURNMENT
There being no further business on the agenda, and without objection, Chair Perello adjourned the meeting at 9:00 p.m.

ROSE CHAPARRO	BERT E. PERELLO
City Clerk	Chair

PUBLIC WORKS AND TRANSPORTATION COMMITTEE
AGENDA REPORT

REPORTS
AGENDA ITEM NO. D.1

DATE: November 12, 2024

TO: Public Works and Transportation Committee

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

SUBJECT: Intelligent Transportation System (ITS) Update. (20 minutes)

RECOMMENDATION

That the Public Works and Transportation Committee:

1. Receive a presentation on the Intelligent Transportation System; and
2. Recommend that the item be forwarded to the City Council to be heard as an Appointment Item.

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

BACKGROUND

In 2008, the City developed the Intelligent Transportation Systems Master Plan, which provided a road map to identify and prioritize a multitude of improvements to the transportation network including the deployment of Intelligent Transportation System (ITS) strategies throughout the City. These improvements focus on transportation system infrastructure that enhances mobility and safety for the public within the City.

DISCUSSION

This report is intended to inform City Councilmembers regarding the City's ITS program. The City's on-call traffic engineering consultant and subject matter expert, Andrew Yi, Principal Engineer of LSY Inc. will provide a live presentation. ITS is generally described as the deployment of technologies and the associated infrastructure improvements that enable staff to perform real-time monitoring of circulation Citywide. The City's ITS infrastructure can detect traffic signal malfunctions, collect data for number of vehicles, bicycles and pedestrians, and has the ability for remote access to the traffic signal system.

This report will provide information regarding the City's ITS strategies, its technical capabilities, and infrastructure upgrades that have been or will be completed as part of the City's Capital Improvement Program.

STRATEGIC PRIORITIES

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

FINANCIAL IMPACT

There is no financial impact in receiving the presentation.

Prepared by: Debbie O'Leary, Transportation Planner

ATTACHMENTS

1. Presentation

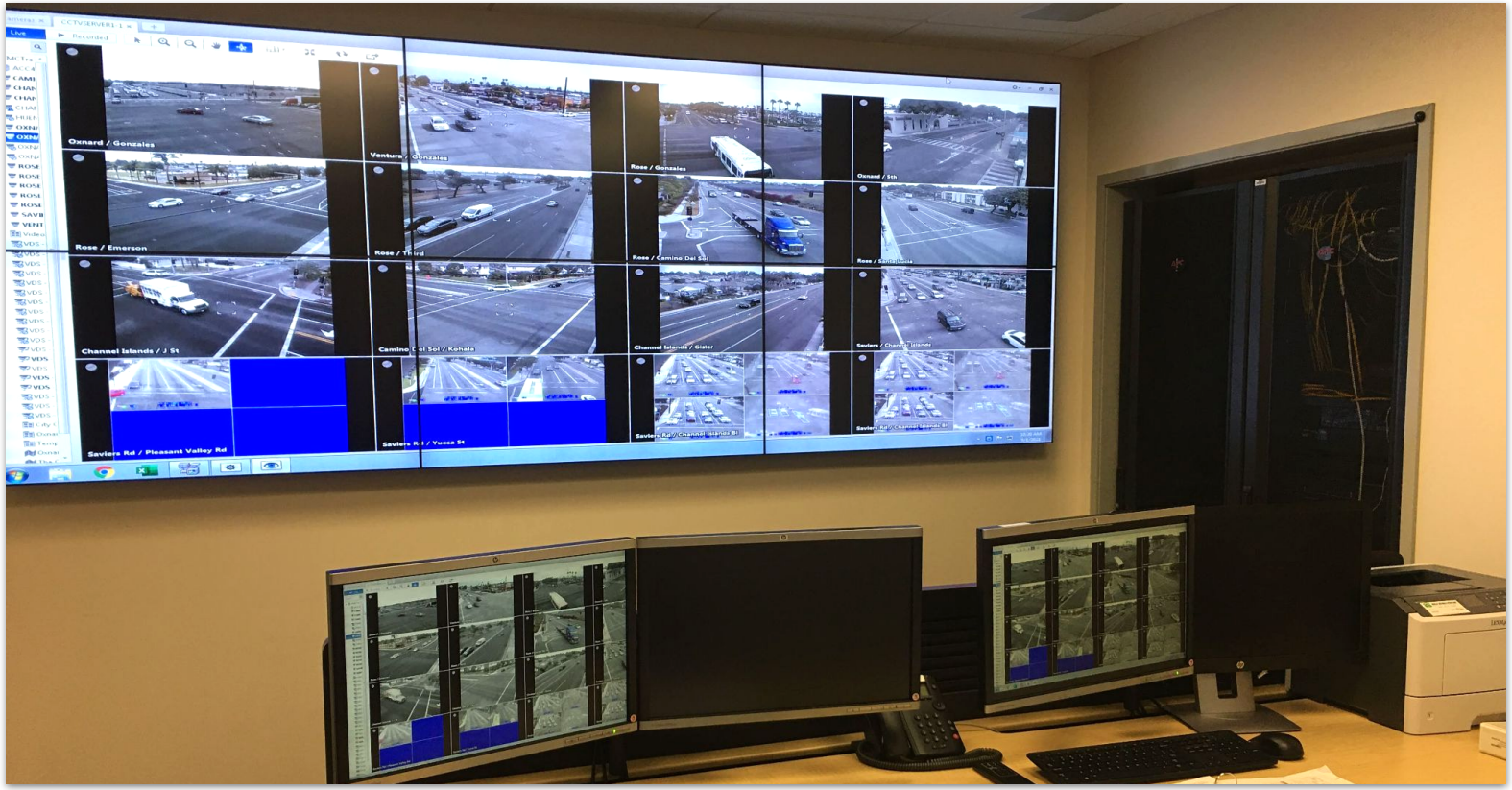
CITY OF OXNARD
INTELLIGENT TRANSPORTATION SYSTEMS (ITS) & TRAFFIC SIGNAL OPERATION

presented by:
Andrew Yi, LSY Enterprise, Inc.

Public Works Transportation Committee
November 12, 2024

CITY OF OXNARD CALIFORNIA

Intelligent Transportation Systems (ITS) & Traffic Signal Operation



Andrew Yi, P.E., T.E.
Principal Engineer
LSY Enterprise, Inc.

CITY OF OXNARD CALIFORNIA

WHAT IS ITS?

Intelligent Transportation Systems (ITS) – The **TECHNOLOGIES** that enable City Staff to **MONITOR AND CONTROL** traffic signal operation from a **REMOTE LOCATION** (**T**raffic **M**anagement **C**enter) in **REAL TIME**.

- Real-time effective monitoring
- Detect traffic signal malfunctions and response
- Data collection (traffic/bicycle/pedestrian)
- Remote access to the traffic signal system

CITY OF OXNARD CALIFORNIA

CITY OF OXNARD ITS OVERVIEW

TRAFFIC MANAGEMENT CENTER

- Advanced Traffic Management System (ATMS)
- Video Management System
- Video Detection Cameras
- Closed Caption TV Cameras (CCTV)
- Battery Backup System

168 SIGNALIZED INTERSECTIONS

- 2070 OMNI Controllers (New)
- 170E Controllers (Old)

COMMUNICATION SYSTEM

- Fiber Optic cable
- Wireless Communications

CITY OF OXNARD CALIFORNIA

CAMERAS, VIDEO DETECTION, CCTV

CITY OF OXNARD CALIFORNIA

TRAFFIC SIGNAL TIMING

Oxnard Boulevard at Vineyard Avenue

INTERSECTION TIMING

- Pedestrian Time (crossing distance)
- Yellow Time (speed base)
- Red Time
- Minimum Green Time (bicycles)
- Traffic Signal Cycle Length

TRAFFIC SIGNAL TIMING WORKSHEET

Intersection: _____

N/S street: _____ Posted speed: _____

E/W street: _____ Posted speed: _____

Phasing Diagram

1	2	3	4
5	6	7	8

Pedestrian

Phase	Y+R (sec)	t_p (sec)	w_p (ft)	F_t (sec)

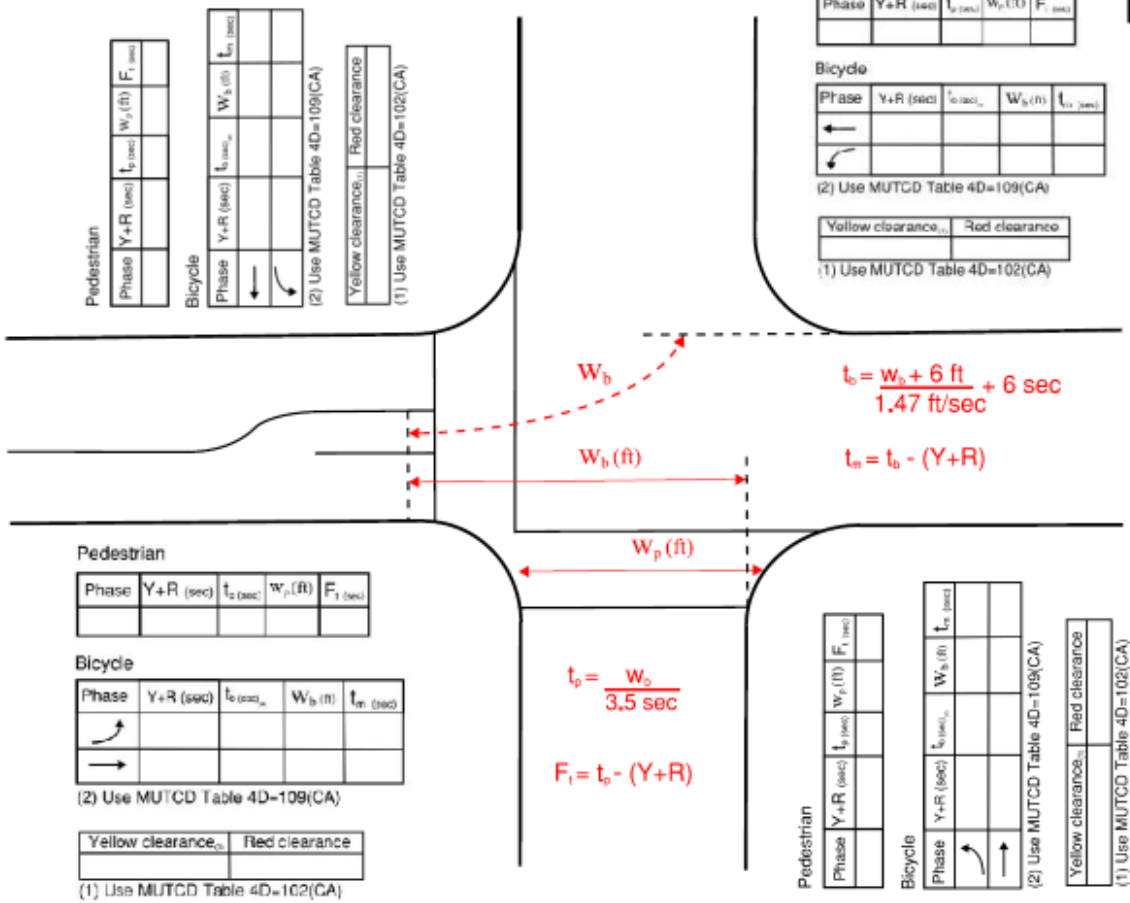
Bicycle

Phase	Y+R (sec)	t_b (sec)	W_b (ft)	t_m (sec)
←				
↙				

(2) Use MUTCD Table 4D-109(CA)

Yellow clearance	Red clearance

(1) Use MUTCD Table 4D-102(CA)



w_p = Pedestrian walking distance	
t_p = Pedestrian clearance time	
F_t = Flashing don't walk time	
w_b = Bicycle clearance distance	
t_b = minimum bicycle clearance time	
t_m = minimum green	
w_s = walking speed (3.5 ft/sec)	

N.T.S

J. Rivera

TRAFFIC SIGNAL TIMING PLAN

2.1 Phase Parameters Set 1	1	2	3	4	5	6	7	8
Min Green	9	11	0	0	9	11	13	11
Passage	3.0	4.5	0.0	0.0	3.0	4.5	3.0	3.0
Max 1	25	50	0	0	25	50	30	30
Max 2	15	30	0	0	15	30	20	20
Max 3	0	0	0	0	0	0	0	0
Max 4	0	0	0	0	0	0	0	0
Yellow Change	5.5	5.5	0.0	0.0	5.5	5.5	4.5	4.5
Red Clear	1.0	1.0	0.0	0.0	1.0	1.0	1.0	1.0
Walk	0	5	0	0	0	5	5	0
Ped Clear	0	27	0	0	0	27	29	0
Added Initial	0.0	2.0	0.0	0.0	0.0	2.0	0.0	0.0
Max Initial	0	20	0	0	0	20	0	0
Time Before Reduction	0	7	0	0	0	7	0	0
Cars Before Reduction	0	0	0	0	0	0	0	0
Time To Reduce	0	10	0	0	0	10	0	0
Reduce By	0.0	1.0	0.0	0.0	0.0	1.0	0.0	0.0
Min Gap	3.0	3.5	0.0	0.0	3.0	3.5	3.0	3.0
Dynamic Max Limit	0	0	0	0	0	0	0	0
Dynamic Max Step	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Red Revert	2.0	2.0	0.0	0.0	2.0	2.0	2.0	2.0
Cond. Service Min	0	0	0	0	0	0	0	0
Alternate Min Green	0	0	0	0	0	0	0	0
Alternate Passage	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Alternate Walk	0	0	0	0	0	0	0	0
Alternate Ped Clear	0	0	0	0	0	0	0	0
Advanced Walk	0	0	0	0	0	0	0	0
Delay Walk	0	0	0	0	0	0	0	0
Start Delay Time	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Green Clear	0	0	0	0	0	0	0	0

CITY OF OXNARD CALIFORNIA

TRAFFIC SIGNAL TIMING

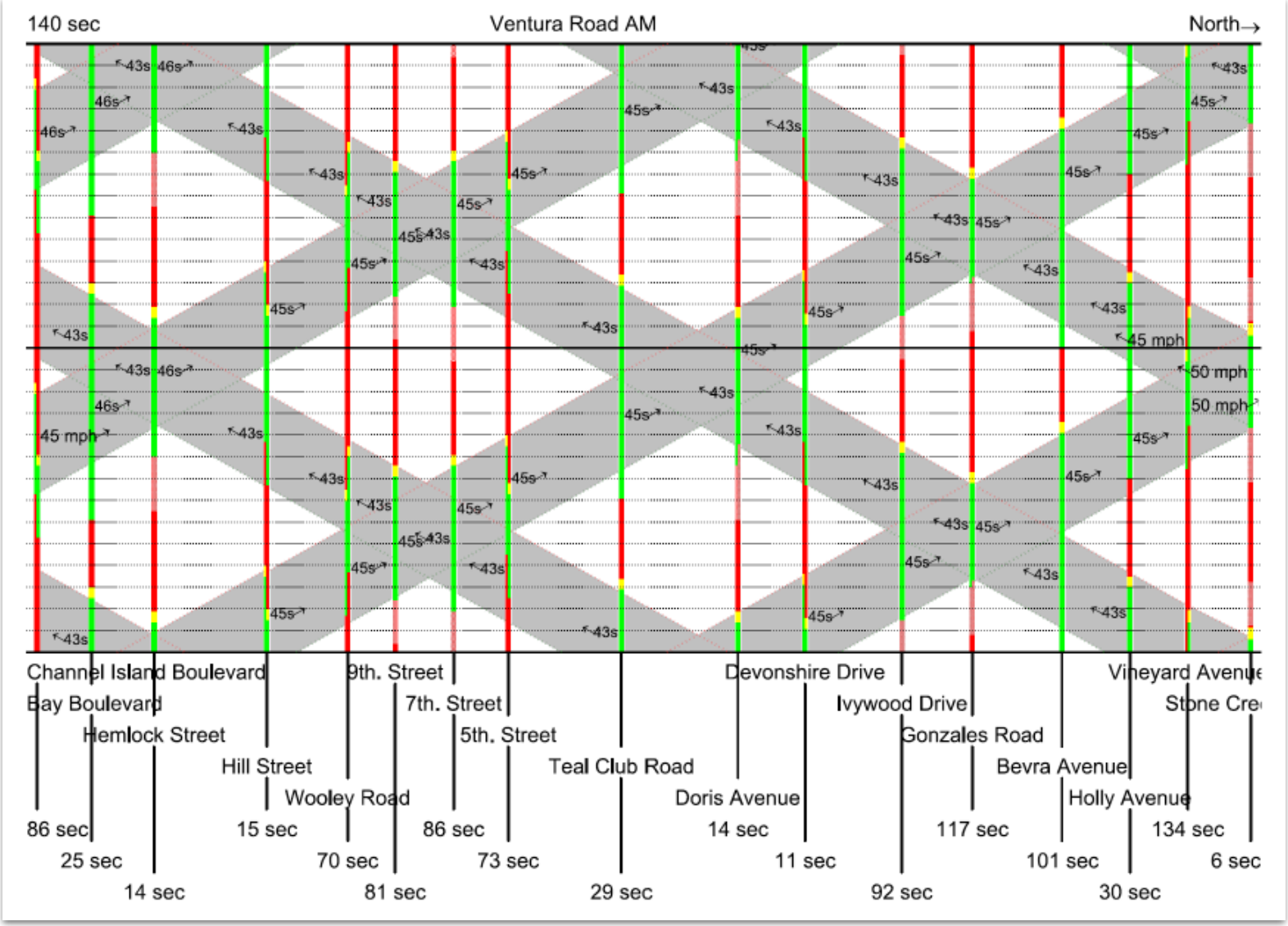
COORDINATED TIMING

- Coordinated intersection signal timing

CHALLENGES

- Must run on the same cycle length or one-half
- Must balance directional/crossing traffic the same cycle length
- Approach traffic volumes are different
- Intersections are different sizes

TIME SPACE DIAGRAM



BENEFITS OF ITS

- Improved traffic flow
- Reduce the need for infrastructure improvements
- Reduce Greenhouse Gas Emission (GHG)
- Saving on fuel consumption
- Improve safety
- Improve driver experience
- Excellent Benefit Cost Ratio

CITYWIDE ITS CORRIDORS

- Gonzales Road (Victoria Avenue to Rice Avenue - 4.5 miles)
  Completed 2023

- Rose Avenue (Lockwood Street to Pleasant Valley - 4.5 miles)
  Completed 2023

CITYWIDE ITS CORRIDORS

Ventura Road (Stone Creek Drive to Channel Islands - 4 miles)

Completed June 2024

Ventura Road (Stone Creek - Channel Islands)- Coordination Timing Before/After Summary

Number of intersections: 17

Synchro Output (Three Hour - AM, Mid, PM Peak)									
	AM After	AM Before	Mid After	Mid Before	PM After	PM Before	Combined After	Combined Before	Difference
Total Travel Time (hr)	583	625	401	424	603	678	1587	1727	-140
Fuel Consumed (gal)	909	1027	627	696	940	1065	2476	2788	-312
CO Emissions (kg)	63.53	71.76	43.84	48.63	65.69	74.42	173.06	194.81	-21.75

Floating Car Travel Time (Three Runs)									
	AM After	AM Before	AM Difference		PM After	PM Before	PM Difference		Combined Difference
SB Average Travel Time (min:sec)[1]	7:20	10:21	3:01		10:37	12:06	1:29		4:30
SB Total Stops[2]	3	24	21		7	20	13		34
NB Average Travel Time (min:sec)[1]	6:34	11:29	4:55		10:57	10:59	0:02		4:57
NB Total Stops[2]	2	16	14		9	22	13		27

[1] Average travel time speed based on three runs from Channel Islands Bl to Town Ctr Dr (4.95 miles)

[2] Total stops on three runs from Channel Islands Bl to Town Ctr Dr

CITY OF OXNARD CALIFORNIA

CITYWIDE ITS CORRIDORS

Oxnard Boulevard (Vineyard Avenue – Wooley Road - 2.5 miles)

Completed August 2024

Oxnard Blvd (Wagon Wheels and Wooley) - Coordination Timing Before/After Summary

Number of intersections: 14

Synchro Output (Three Hour - AM, Mid, PM Peak)									
	AM After	AM Before	Mid After	Mid Before	PM After	PM Before	Combined After	Combined Before	Difference
Total Travel Time (hr)	520	539	421	432	671	706	1612	1677	-65
Fuel Consumed (gal)	693	726	574	591	893	917	2160	2234	-74
CO Emissions (kg)	48.44	50.72	40.11	41.29	62.4	64.13	150.95	156.14	-5.19

Floating Car Travel Time (Three Runs)									
	AM After	AM Before	AM Difference		PM After	PM Before	PM Difference		Combined Difference
SB Average Travel Time (min:sec)[1]	6:33	7:45	1:12		7:53	9:22	1:29		2:41
SB Total Stops[2]	5	12	7		7	14	7		14
NB Average Travel Time (min:sec)[1]	6:30	6:46	0:16		8:11	8:11	0:00		0:16
NB Total Stops[2]	4	8	4		8	11	3		7

[1] Average travel time speed based on three runs from Wagon Wheel Rd to Wooley Rd (3.16 miles)

[2] Total stops on three runs from Wagon Wheel Rd to Wooley Rd

CITY OF OXNARD CALIFORNIA

QUESTIONS?

CONTACT INFO:

ANDREW YI, P.E., T.E.

PRINCIPAL ENGINEER

LSY ENTERPRISE, INC.

PUBLIC WORKS AND TRANSPORTATION COMMITTEE
AGENDA REPORT

REPORTS
AGENDA ITEM NO. D.2

DATE: November 12, 2024

TO: Public Works and Transportation Committee

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

SUBJECT: Agreement 32500218 with Garcia's Landscaping Maintenance, Inc. for On-Call Landscape Systems Maintenance and Minor Repair Services, Specification No. 25-10. (10 minutes)

RECOMMENDATION

That the Public Works and Transportation Committee recommend that the City Council approve and authorize an Agreement with Garcia's Landscaping Maintenance, Inc. for an initial term of three years from December 4, 2024, to December 3, 2027, with the option for two consecutive one-year period extensions ending December 3, 2029, for a total not-to-exceed amount of $3,000,000 for citywide On-Call Landscape Systems Maintenance and Minor Repair Services.

Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/Lqf651gpoAg

BACKGROUND

The Public Works Department oversees and manages among other things parks, facilities, streets, public right of way, landscape maintenance districts, community facilities districts, and waterways districts throughout the City of Oxnard. Within each of these areas, there are specific services that are funded by either the General Fund, Internal Service Funds, or special assessments for the maintenance of various types of landscape and irrigation systems that include minor repairs, as required, for both safety and aesthetic purposes.

Throughout the year, Special Districts staff receive reports of damaged, vandalized, or deteriorating landscape and irrigation systems that are located within various assessment districts. Therefore, an on-call landscape systems maintenance and minor repair services agreement is needed so that staff can be responsive to the maintenance needs of the various communities. Additionally, this Agreement may be used by other Divisions within Public Works to address similar needs. The on-call services for this Agreement is tentatively scheduled to begin in December 2024, absent any delays due to supply chain issues, unforeseen site conditions, or weather.

DISCUSSION

The Request for Bids ("RFB") was published on July 25, 2024, and all bids were due and opened on August 29, 2024. The City received the following bids which are the aggregate totals of all hourly rates requested within the bid sheet:

	Bidder

Item No.	Description	Unit	Mariposa Landscapes, Inc.	JAS Landscape Inc.	Garcia's Landscaping Maintenance Inc.
1	Scheduled On-Call Minor Repair and Maintenance Services	Hourly Rate Monday-Friday 8:00am-5:00pm	$ 72.00 /HR	$ 55.00 /HR	$ 65.00 /HR
2	Scheduled On-Call Minor Repair and Maintenance Services	Hourly Rate Monday-Friday 5:01pm - 7:59am, weekends and holidays	$ 135.00 /HR	$ 82.50 /HR	$ 68.00 /HR
3	Urgent Unscheduled On-Call Minor Repair and Maintenance Services	Hourly Rate Monday-Friday 5:01pm - 7:59am, weekends and holidays Work begins within 4 hours	$ 198.00 /HR	$ 97.50 /HR	$ 68.00 /HR
4	Urgent Unscheduled On-Call Minor Repair and Maintenance Services	Hourly Rate Monday-Friday 8:00am-5:00pm Work begins within 4 hours	$ 103.00 /HR	$ 65.00 /HR	$ 68.00 /HR
		Bid Total:	**$ 508.00**	**$ 300.00**	**$ 269.00**

The lowest bidder is Garcia's Landscaping Maintenance Inc. ("Garcia's") and their bid is responsive to the City's RFB. Following this determination, procurement staff reviewed all documentation received from Garcia's and its subcontractors. Based upon the available information and research performed to date, staff believes that the contractor is capable of satisfactorily completing the project. Thus, staff recommends that the City Council award the contract for this Project to Garcia's Landscaping Maintenance Inc.

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 32500218 with Garcia's Landscaping Maintenance Inc. shall not exceed $3,000,000 for the full term of the Agreement that includes the three-year term and the optional two additional one-year terms, for On-Call Landscape Systems Maintenance and Minor Repair Services.

The Adopted Budget for FY 2024-25 includes costs for these services. Funding shall be provided by various Public Works Divisions based on task orders and available Council-approved funding. There are no guaranteed spending amounts, and each division shall only pay for the services that are rendered.

Prepared by: Steve Howlett, Assistant Public Works Director, Anthony Miller, Interim Special Districts Manager

ATTACHMENTS

1. Agreement 32500218
2. Presentation

TRADE SERVICE AGREEMENT
BETWEEN
THE CITY OF OXNARD AND
GARCIA'S LANDSCAPING MAINTENANCE, INC.

By This Trade Services Agreement ("Agreement"), the CITY of Oxnard ("CITY") agrees to engage the services of Garcia's Landscaping Maintenance, 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. This Agreement is for On-Call Landscape Systems Maintenance and Minor Repair Services

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

Garcia's Landscaping Maintenance, Inc. ("SERVICE PROVIDER"), a corporation of the State of California, located at 2775 North Ventura Road, Suite 104, Oxnard, California 93036

3. TERM OF AGREEMENT: From: December 4, 2024 To: December 3, 2027

3.1 Time is of the essence in this Agreement.

3.2 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.

3.3 Any Optional Extension (initial term, plus any option to extend) shall not exceed a total of five (5) 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.

3.4 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: $3,000,000

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: City Insurance Exhibit INS-D
Exhibit D: Living Wage Policy
Exhibit E: Prevailing Wage Policy
Exhibit F: Iran Contracting Certification

6. DESIGNATED REPRESENTATIVES.

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

CITY Designated Representative:
Name: Anthony Miller
Title: Special Districts Manager
Phone: 805-200-5334
Email: anthony.miller@oxnard.org
Mailing Address (if differs from above):
1060 Pacific Ave. Bldg. 1
Oxnard, California 93030

SERVICE PROVIDER Designated Representative:
Name: Tenley G. Hernandez
Title: CEO
Phone: 805-479-0168
Email: garciasbiz@gmail.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.

9.1 Price Adjustments. Unless otherwise stated, prices are maximum for the term of the Contract. Price adjustments, if allowed under this Contract, must be requested in writing and accompanied by the required information to substantiate the request for price adjustment, as set forth in the Contract. Any allowable request for price adjustment must be delivered to the CITY at least 30 days before the adjusted prices become effective. No price adjustment allowable under this Contract will be granted retroactively. The CITY must also be given the benefit of any decline in prices.

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: **sdinvoices@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, 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 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 20 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, subcontractors, 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, subcontractors, or employees are in any manner agents, subcontractors, 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 7920.505) and may contain "trade secrets" (see Government Code Section 7924.510(f)) 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 7920.515.

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. Notice shall be given in the manner set forth in section 20.

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

In accordance with the Iran Contract Act of 2010 (Public Contract Code sections 2200-2208) the City requires that any CONSULTANT that submits a proposal or otherwise proposes to enter into or renew a contract with the City with respect to goods or services of one million dollars ($1,000,000) or more, must certify, that the CONSULTANT is not identified on a list created pursuant to subdivision (b) of Public Contract Code Section 2203 as a person engaging in investment activities in Iran described in subdivision (a) of Public Contract Code Section 2202.5, or as a person described in subdivision (b) of Public Contract Code Section 2202.5, as applicable.

A CONSULTANT is ineligible to enter into any contract with the CITY for goods or services of one million dollars ($1,000,000) or more if the CONSULTANT engages in investment activities in Iran. CONSULTANT must certify that it is not on the list of ineligible vendors prohibited from doing business with the State of California and shall complete the Iran Contract Act Certification attached as Exhibit F.

29. SUBCONTRACTING.

If CONSULTANT requires the assistance of a subcontractor to render any services under this agreement, Consultant shall obtain prior written consent from the City before

a subcontractor performs any service pursuant to this Agreement. All subcontractors shall be identified in the scope of work attached to this Agreement as Exhibit A. CONSULTANT is fully responsible for satisfactory completion of all its subcontractors' work. All subcontractors shall be properly licensed and insured; and bonded, if applicable. CONSULTANT shall be responsible for all liabilities regardless of nature, type, or cause, arising out of or resulting from or in connection with subcontractors performance pursuant to this Agreement or subcontractors failure to comply with any of its obligations in connection with this Agreement.

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 or electronic 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 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, [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)

GARCIA'S LANDSCAPING MAINTENANCE, INC.

Tenley Garcia Hernandez Date
CFO

Tenley Garcia Hernandez[3] Date
CEO

[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 Garcia's Landscaping Maintenance, Inc.)

SCOPE OF SERVICES

INSERT CITY PROJECT MANAGER FOR THIS AGREEMENT: Anthony Miller / 805-200-5334 / anthony.miller@oxnard.org

Service Provider shall perform all Tasks in a good and workmanlike manner for the project identified as On-Call Landscape and Irrigation Systems Minor Repair and Maintenance Services ("Project"), as described in this solicitation and in the Contract Documents, throughout the Contract Term. The Service Provider shall provide on-call minor repair and maintenance services of landscape and irrigation systems located throughout the City of Oxnard as requested through Task Order. Service Provider may be asked to assist with work for multiple divisions/departments throughout the City. Such services may include but are not limited to:

1. Inspect irrigation systems and identify required maintenance needs.
2. Repair, maintain, or replace worn, damaged, or potentially faulty components in irrigation systems.
3. Convert/reconfigure existing irrigation systems and components for proper coverage of landscaped areas.
4. Maintenance of and rehabilitation of landscaped areas.
5. Provide reports on the condition of the landscape and irrigation systems as requested.

Scope of Maintenance Services

The work may take place in any location throughout the City as designated by the Project Manager. This on-call contract may be utilized by all divisions or departments throughout the City.

The Service Provider shall provide on-call maintenance and minor repair of landscaped areas and irrigation systems located within the City of Oxnard as requested through Task Order. Such services may include but are not limited to:

1. Inspect irrigation systems and identify required maintenance needs.
2. Repair, maintain, or replace worn, damaged, or potentially faulty components in irrigation systems.

3. Convert current irrigation systems.
4. Maintenance of or minor replacement of existing landscaped areas.
5. Provide reports on the condition of the landscaped areas and irrigation systems as requested.

All costs for labor for these calls shall be included in the Bid sheets.

Response Time

Service Provider shall respond to all requests as required, 24 hours per day, 365 days per year, including holidays. All costs for labor for these calls shall be included in the Bid sheets.

1. Non-Scheduled Urgent Minor Repair Work:

Service Provider must verbally respond within sixty (60) minutes of telephone notification by the City. Service Provider must be on the site within four (4) hours of the notification and begin work immediately. Urgent minor repairs are those where public interest and necessity demand the immediate expenditure of public money to avoid harm to or to safeguard life, health, or property.

For urgent minor repairs needing time-sensitive attention and authorized to start work ahead of a Task Order/Purchased Order, the Service Provider shall submit to the Project Manager an invoice or cost estimate within 48 hours from the time the work was authorized. The cost estimate shall list the Scope of Work, materials, labor times, schedules, and related items for urgent minor repairs completed and/or underway.

When the extent of urgency is no longer necessary because the threat to public health and safety and/or property is no longer present, the Service Provider shall coordinate with the Project Manager to schedule minor repair and maintenance work. Scope of Work to complete the minor repairs may require a separate cost estimate for non-scheduled urgent minor repairs.

2. Scheduled Minor Repair and Maintenance Work:

Service Provider must verbally respond within four (4) hours of telephone notification by the City. The scope of Work and schedule shall be mutually agreed to between City staff and service provider before work begins. Work under this category shall be planned and scheduled Monday through Friday between the hours of 8:00 am and 5:00 pm unless otherwise agreed to by the City.

Upon issuance of the purchase order for routine maintenance work and minor repairs, the Service Provider is expected to commence the work within three (3) Working Days.

Payment

All work shall be pre-approved by a Purchase Order issued by the Project Manager prior to starting work. The Estimate will include all materials, labor, and taxes. A

separate invoice is required for each Purchase Order issued pursuant to the Contract. Service Provider is required to itemize the number of hours it will take for completion of an Estimate. Material and equipment rentals will be reimbursed at cost (Service Provider must include receipt of purchase with the invoice submitted to the City) plus 15% for material handling and Service Provider will be required to itemize the supplies cost within the Estimate. When requested, the Service Provider shall provide copies of receipts. Freight shall be incorporated into the cost of materials and/or equipment rentals.

Service Provider shall only invoice for time spent at the locations of service. The City shall not pay for time spent in route or traveling to acquire parts or supplies unless approved by the Project Manager and included in the Estimate.

To assist with payment processing and avoid payment delays, ALL invoices submitted for payment shall include reference information noted in the Purchase Order. Including but not limited to:

- Invoice Number (Partial or Final Invoice)
- Project Name & Address
- Estimate # & Date
- Purchase Order # & Amount
- Project Manager
- Scope of Work Description

EXHIBIT B

TRADE SERVICE AGREEMENT
(CITY of Oxnard and Garcia's Landscaping Maintenance, Inc.)

SCHEDULE OF COMPENSATION

ITEM NO.	DESCRIPTION	UNIT	Total
1	Scheduled On-Call Minor Repair and Maintenance Services	Hourly Rate Monday-Friday 8:00am-5:00pm	$65.00 /HR
2	Scheduled On-Call Minor Repair and Maintenance Services	Hourly Rate Monday-Friday 5:01pm - 7:59am, weekends and holidays	$68.00 /HR
3	Urgent Unscheduled On-Call Minor Repair and Maintenance Services	Hourly Rate Monday-Friday 5:01pm - 7:59am, weekends and holidays Work begins within 4 hours	$68.00 /HR
4	Urgent Unscheduled On-Call Minor Repair and Maintenance Services	Hourly Rate Monday-Friday 8:00am-5:00pm Work begins within 4 hours	$68.00 /HR

EXHIBIT C

TRADE SERVICES AGREEMENT
(CITY of Oxnard and Garcia's Landscaping Maintenance, 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 <u>and</u> 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.

10/24

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 ☐ 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		
☐ _____		
☐ _____		

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. 10/24 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. 10/24 INS-D.doc

EXHIBIT D

TRADE SERVICES AGREEMENT
(CITY of Oxnard and Garcia's Landscaping Maintenance, 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 $19.51 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, 2024

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 $19.51 per hour for each hour that such employee provides services under this Agreement. This hourly rate shall be adjusted on July 1, 2025, 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 Garcia's Landscaping Maintenance, 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.

EXHIBIT F

TRADE SERVICES AGREEMENT
(CITY of Oxnard and Garcia's Landscaping Maintenance, Inc.)

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

Public Contract Code Sections 2202-2208

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

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

OPTION No.1 – CERTIFICATION

I, the official named below, certify I am duly authorized to execute this certification on behalf of the company/identified below, and the company/entity identified below is not on the current list of persons engaged in investment activities in Iran created by DGS and is not a financial institution extending twenty million dollars ($20,000,000) or more in credit to another person or entity, for 45 days or more, if that other person or company/entity will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS in accordance with subdivision
(b) of Public Contract Code 2203.

Company Name/Financial Institution (printed): _____ Federal ID Number (or n/a): _____

By (Authorized Signature): _____

Printed Name & Title of Person Signing: _____ Date Executed _____

Executed in the County of_____ in the State of _____

OPTION No.2 – EXEMPTION

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

Company Name/Financial Institution (printed): _____ Federal ID Number (or n/a): _____

By (Authorized Signature): _____

Printed Name & Title of Person Signing: _____ Date Executed _____

Executed in the County of_____ in the State of _____

Agreement 325000218 with Garcia's Landscaping Maintenance, Inc for On-Call Landscape Systems Maintenance and Minor Services, Specification No. PW 25-10

Public Works and Transportation Committee
November 12, 2024

Anthony Miller
Special Districts Manager

CITY OF OXNARD CALIFORNIA

RECOMMENDATION

That the Public Works and Transportation Committee recommend that the City Council approve and authorize an Agreement with Garcia's Landscaping Maintenance, Inc. for an initial term of three years from December 4, 2024, to December 3, 2027, with the option for two consecutive one-year period extensions ending December 3, 2029, for a total not-to-exceed amount of $3,000,000 for citywide On-Call Landscape Systems Maintenance and Minor Repair Services.

BACKGROUND

- The Public Works Department oversees and manages among other things parks, facilities, streets, public right of way, landscape maintenance districts, community facilities districts, and waterways districts throughout the City of Oxnard
- Within each of these areas, there are specific services that are funded by either the General Fund, Internal Service Funds, or special assessments for the maintenance of various types of landscape and irrigation systems that include minor repairs, as required, for both safety and aesthetic purposes

BACKGROUND

- Throughout the year, Special Districts staff receive reports of damaged, vandalized, or deteriorating landscape and irrigation systems that are located within various assessment districts
- Therefore, an on-call landscape systems maintenance and minor repair services agreement is needed for staff to be responsive to the maintenance needs of the various communities
- Additionally, this Agreement may be used by other Divisions within Public Works to address similar needs
- The on-call services for this Agreement is tentatively scheduled to begin in December 2024, absent any delays due to supply chain issues, unforeseen site conditions, or weather

DISCUSSION

- The Request for Bids ("RFB") was published on July 25, 2024, and all bids were due and opened on August 29, 2024
- The City received the following bids which are the aggregate totals of all hourly rates requested within the bid sheet:

			Bidder		
Item No.	**Description**	**Unit**	**Mariposa Landscapes, Inc.**	**JAS Landscape Inc.**	**Garcia's Landscaping Maintenance Inc.**
1	Scheduled On-Call Minor Repair and Maintenance Services	Hourly Rate Monday-Friday 8:00am-5:00pm	$ 72.00 /HR	$ 55.00 /HR	$ 65.00 /HR
2	Scheduled On-Call Minor Repair and Maintenance Services	Hourly Rate Monday-Friday 5:01pm - 7:59am, weekends and holidays	$ 135.00 /HR	$ 82.50 /HR	$ 68.00 /HR
3	Urgent Unscheduled On-Call Minor Repair and Maintenance Services	Hourly Rate Monday-Friday 5:01pm - 7:59am, weekends and holidays Work begins within 4 hours	$ 198.00 /HR	$ 97.50 /HR	$ 68.00 /HR
4	Urgent Unscheduled On-Call Minor Repair and Maintenance Services	Hourly Rate Monday-Friday 8:00am-5:00pm Work begins within 4 hours	$ 103.00 /HR	$ 65.00 /HR	$ 68.00 /HR
		Bid Total:	**$ 508.00**	**$ 300.00**	**$ 269.00**

DISCUSSION

- The lowest bidder is Garcia's Landscaping Maintenance Inc. ("Garcia's") and their bid is responsive to the City's RFB
- Following this determination, procurement staff reviewed all documentation received from Garcia's and its subcontractors
- Based upon the available information and research performed to date, staff believes that the contractor is capable of satisfactorily completing the project
- Thus, staff recommends that the City Council award the contract for this Project to Garcia's Landscaping Maintenance Inc.

FINANCIAL IMPACT

- The total cost for this Agreement 32500218 with Garcia's Landscaping Maintenance Inc. shall not exceed $3,000,000 for the full term of the Agreement that includes the three-year term and the optional two additional one-year terms, for On-Call Landscape Systems Maintenance and Minor Repair Services
- Costs for these services are included in the Adopted Budget for FY 2024-25
- Funding shall be provided by various Public Works Divisions based on a task order basis and available Council-approved funding
- There are no guaranteed spending amounts and each division shall only pay for the services that are rendered

CITY OF
OXNARD
CALIFORNIA

QUESTIONS

PUBLIC WORKS AND TRANSPORTATION COMMITTEE
AGENDA REPORT

REPORTS
AGENDA ITEM NO. D.3

DATE: November 12, 2024

TO: Public Works and Transportation Committee

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

SUBJECT: Professional Services Agreements 32500224 with Kimley-Horn and Associates, Inc., 32500226 with Fehr & Peers and 32500223 with LSY Enterprise, Inc. for as-needed Traffic-Related and Planning Services. (10 minutes)

RECOMMENDATION

That the Public Works and Transportation Committee recommend that the City Council approve and authorize the Mayor to execute the following:

1. An Agreement with Kimley-Horn and Associates, Inc. for an initial term of three years from December 4, 2024, to December 3, 2027, with the option for two consecutive one-year period extensions ending December 3, 2029, for a total not-to-exceed amount of $1,500,000 for as needed Traffic Signal Operations and Engineering Services Specification No. PW 25-18;
2. An Agreement with Fehr & Peers for an initial term of three years from December 4, 2024, to December 3, 2027, with the option for two consecutive one-year period extensions ending December 3, 2029, for a total not-to-exceed amount of $1,500,000 for as needed Transportation Planning and Grant Writing Services Specification No. PW 25-19; and
3. An Agreement with LSY Enterprise, Inc. for an initial term of three years from December 4, 2024, to December 3, 2027, with the option for two consecutive one-year period extensions ending December 3, 2029, for a total not-to-exceed amount of $1,500,000 for as needed General Traffic Engineering Services Specification No. PW 25-20.

Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/IAx4kkV2Oy0

BACKGROUND

The Traffic Engineering Division utilizes consulting firms to provide licensed technical expertise on various subjects within traffic engineering. Agreements with these specialty firms are necessary due to the nature and volume of work within the division. These resources support assignments as well as capital projects assigned to the division. Having pre-approved professional service agreements allows Staff to research and respond in a timely manner to traffic-related 311 requests for service such as speed hump installation, new stop signs, new traffic signals, pedestrian crossing enhancements, signal timing modifications, and other traffic calming measures. These agreements also provide expert specialists in grant writing, transportation planning, evaluation of traffic studies, and preparation of plans, specifications, and estimates on select capital projects.

DISCUSSION

On August 7, 2024, the Public Works Department advertised three separate Request For Proposals (RFP's). All bids were due on September 10, 2024, and were evaluated by the Interim City Traffic Engineer, Transportation Planner, and three Associate Engineers. Following is a description of the scope of work and selected consulting firm.

1. Traffic Signal Operations and Engineering Services (PW 25-18)

The scope of work generally includes supporting traffic signal modification operations, engineering, and design services. More specifically, but not limited to:

- Traffic signal improvement and operation projects requiring preliminary engineering
- and/or feasibility studies;
- Traffic signal design including but not limited to new signals, signal modifications, signal
- communication, etc.;
- Traffic data collection in support of analyzing potential improvements to traffic signal
- functionality and operation;
- Traffic signal operation analyses and operation improvements including signal
- coordination systems;
- Traffic management plan development as related to traffic signal improvement or operation projects;
- Traffic signal modification design services consisting of all items of work necessary to
- finalize design and complete Final Plans, Specifications & Estimates (PS&E) for bidding
- capital projects; and
- Prepare and deliver presentations to the City Council

The City received three (3) proposals and Kimley-Horn and Associates, Inc. was selected as the most qualified firm based on their qualifications, knowledge, technical experience, and prior success on City projects. Following this determination, procurement staff confirmed all documentation was received. Based upon the available information and research performed to date; staff believes that the consultant is capable of satisfactorily completing the service. Thus, staff recommends that the City Council award the contract for this service to Kimley-Horn and Associates, Inc.

2. Transportation Planning and Grant Writing Services (PW 25-19)

The scope of work generally includes providing routine transportation planning and grant writing. More specifically, but not limited to:

- Transportation planning and grant writing for state and regional funding programs, including cost estimating, cost-benefit analysis, completing all required application exhibits, narratives, etc.;
- Development and updates of transportation-related policies and guidelines including
- transportation master plans;
- Development of traffic impact fees and updates;
- Transportation modeling of multi-modal travel demand and traffic volume forecasts;
- Planning and conceptual designs of complete streets in light of established standards and guidelines;
- Traffic feasibility studies and analysis for projects such as roundabouts, traffic circles,
- Class I and IV bike lanes, etc.;
- Traffic data collection in support of transportation planning and grant writing services;
- Traffic data collision review and analysis related to transportation planning and grant
- writing services;

- Development of transportation planning documents, consisting of all items of work
- necessary to deliver transportation planning documents for City Council approval or
- Adoption; and
- Prepare and deliver presentations to the City Council.

The City received two (2) proposals and Fehr & Peers was selected as the most qualified firm based on their qualifications, knowledge, plan development experience, grant writing success, and prior success with City projects. Following this determination, procurement staff confirmed all documentation was received. Based upon the available information and research performed to date; staff believes that the consultant is capable of satisfactorily completing the service. Thus, staff recommends that the City Council award the contract for this service to Fehr & Peers.

3. General Traffic Engineering Services (PW 25-20)

The scope of work generally includes providing routine traffic engineering by a licensed professional traffic engineer. More specifically, but not limited to:

- Traffic calming conceptual planning and designs, including all-way stop, traffic signal
- warrant studies, circulation improvements, parking studies, neighborhood management
- plans, etc.;
- Traffic data collection including multi-modal traffic volumes, speed, origin-destination
- surveys, travel time and delays, parking utilization, etc.;
- Traffic speed survey analysis and engineering for establishing and updating speed limits;
- Traffic control design and plan review;
- Traffic feasibility studies and analysis for projects such as roundabouts, traffic circles,
- Class I and IV bike lanes, traffic signal improvements, etc.;
- Traffic design, preparing plans, specifications, and estimates for circulation improvement
- projects, including bicycle, pedestrian, roadway configuration, etc.;
- Traffic management plans and field support for special events or projects;
- Traffic signal design and plan review;
- Traffic signal timing and coordination;
- Traffic signal equipment upgrade and maintenance recommendations;
- Traffic signal technical support including troubleshooting traffic management center
- software, equipment, systems design, etc.;
- Traffic signal intelligent transportation system evaluation and implementation;
- Traffic collision data review and evaluation;
- Traffic engineering development of transportation policies, guidelines, and updates;
- Traffic engineering grant writing for federal, state, and regional funding programs;
- Traffic impact fee establishment and updates;
- Traffic engineering plan check review for private land development projects; and
- Prepare and deliver presentations to the City Council, Public Works Transportation Committee, Planning Commission, and others.

The City received three (3) proposals and LSY Enterprise, Inc. was selected as the most qualified firm based on their qualifications, knowledge, local agency experience, and prior success with City assignments and projects. Following this determination, procurement staff confirmed all documentation was received. Based upon the available information and research performed to date; staff believes that the consultant is capable of satisfactorily completing the service. Thus, staff recommends that the City Council award the contract for this

service to LSY Enterprise, Inc.

Professional services under these three (3) agreements will be composed of work orders for each project assigned by the City under the supervision of a Traffic Engineer or Project Manager. The work order proposal will identify the scope of work to be performed by the consultant, the method by which the consultant plans on completing the work, and a schedule for completion of the work. It is the consultant's responsibility to determine the best and most cost-effective method to complete the work so that the assigned work order can be completed to the satisfaction of the City of Oxnard.

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 each agreement shall not exceed $1,500,000 over the term of three years with two one-year extension options. Funding will be charged to a given project or funding source dependent upon the services performed by work orders. The Traffic Engineering Division will ensure sufficient funding is available in the approved operating budget or CIP project budget for related tasks prior to initiating work orders or services performed.

Prepared by: Morgan Kessler, City Engineer, Kawkeb Said, Senior Engineer, Debbie O'Leary, Transportation Planner

ATTACHMENTS

1. Agreement 32500224 with Kimley Horn
2. Agreement 32500226 with Fehr & Peers
3. Agreement 32500223 with LSY Enterprise, Inc.
4. Presentation

PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF OXNARD AND KIMLEY-HORN AND ASSOCIATES, INC.

By This Professional Services Agreement ("Agreement"), the City of Oxnard ("City") agrees to engage the Services of Kimley-Horn and Associates, Inc. ("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."

RECITALS

WHEREAS, this Agreement is entered into as a result of the Restricted Grant Agreement ("RGA") entered into between the City and the Department of Transportation (Caltrans) attached to this Agreement as Exhibit D and incorporated herein by this reference for Traffic Operations and Engineering; and

WHEREAS, per item 24c. in the RGA, Consultant shall adhere to any and all sections, items, attachments, and amendments of the RGA in additional to the terms of this Agreement and Exhibit E (grant funding requirements); and

WHEREAS, in the event of any conflict between the terms of this Agreement and Exhibits D and E and any attachments, or amendments thereto, the terms of the RGA (exhibit D) and grant funding requirements (exhibit E) shall control; and

WHEREAS, Consultant represents that it is fully qualified and licensed to perform the consulting and/or professional Services required for performance under this Agreement by virtue of its experience and the training, education, and expertise of its principals and its employees; and

WHEREAS, the specific services required under this Agreement will be requested on an as needed basis not all requested services under this agreement will be grant funded, therefore the provisions of Exhibits D & E shall apply to services when that the city representative indicates as grant funded; and

WHEREAS, in light of the facts set forth above, the City desires to retain Consultant to provide Traffic Signal Operations and Engineering on an independent contractor basis in accordance with the terms and provisions set forth in this Agreement.

NOW THEREFORE, IN CONSIDERATION OF THE COVENANTS, CONDITIONS, AND PROMISES CONTAINED HEREIN AND FOR SUCH OTHER GOOD AND VALUABLE CONSIDERATION, RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED, THE PARTIES HERETO AGREE AS FOLLOWS:

1. The Recitals set forth above are true and correct and together with any definitions set forth therein are hereby incorporated into this Agreement by this reference, as though set forth fully herein.

2. SUMMARY DESCRIPTION OF SERVICES.

This Agreement is to provide the City with services that a Traffic Engineer would perform, which may include professional traffic engineering services for traffic signal operations and traffic engineering. Certain services will be grant funded and Consultant shall comply with the terms and conditions stated in the RGA identified in Exhibits D and E.

3. PARTIES.

City of Oxnard, a general law and municipal corporation of the State of California, located at 300 West Third Street, Oxnard California 93030.

Kimley-Horn and Associates, Inc., a corporation of the State of North Carolina, located at 421 Fayetteville Street, Suite 600, Raleigh, North Carolina 27601

4. TERM OF AGREEMENT: From: December 4, 2024 To: December 3, 2027

A. Time is of the essence in this Agreement
B. The City shall have the option to exercise (2) consecutive (1) one-year term extensions, in accordance with the scope of work and terms and conditions of this Agreement. Any price negotiations, if allowed, shall be negotiated at the time of contract extension.
C. This Agreement shall not exceed a total of five (5) years (including the initial term and any options to extend). The City in its sole discretion may exercise the option terms upon sixty (60) days written notice to the Consultant (or any other time if the parties so agree) in accordance with Section 12 of this Agreement. The option term shall be commenced by an amendment to this agreement.

D. All Services required of Consultant under this Agreement shall be completed on or before the end of the term of the Agreement.

5. **AGREEMENT AMOUNT NOT TO EXCEED:** $1,500,000.

6. **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-A
Exhibit D:	Restricted Grant Agreement
Exhibit E	Federal & State Funding Requirements – Caltrans Projects
Exhibit F:	Living Wage Policy
Exhibit G:	Prevailing Wage Policy
Exhibit H:	Iran Contracting Certification

7. **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 Debbie O'Leary	Name Sri Chakravarthy
Title Transportation Planner	Title P.E., T.E. Phone
Phone 805-200-5283	213-261-4037
Email debbie.oleary@oxnard.org	Email sri.chakravarthy@kimley-horn.com
Address 214 South C Street	Address 25152, Suite 200 Springfield Ct.
Oxnard, California 93030	Santa Clarita, California 93155

8. **CONTRACTUAL PREREQUSITIES.** 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.

A. Consultant is advised that any recommendation for Agreement award is not binding on City until the Agreement is fully executed and approved by City.

B. 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.
C. All proof of a City tax certificate, insurance, and W-9 forms is required prior to execution of this Agreement.
D. 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.

9. CONSULTANT'S SERVICES.

A. 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 13 of this Agreement.
B. 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.

10. COMPENSATION. City shall pay Consultant for the Services performed pursuant to the terms of this Agreement and the "Schedule of Compensation," attached to and incorporated into this Agreement as "Exhibit B." City shall pay Consultant an amount not to exceed the amount is listed in Section 5 of this Agreement. Once this Agreement is executed, the Schedule of Compensation may only be modified by written Amendment pursuant to Section 13 of this Agreement, and may be subject to approval by the City Council.

11. PAYMENT and 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 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.

A. 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: **pwengineeringap@oxnard.org**.
B. 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.
C. 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.
D. **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.

12. **OPTION TO EXTEND AGREEMENT.** When in the City's best interest, this Agreement may only be extended, if the City, in its discretion, exercises an option term in accordance with Section 4 subparagraphs (B) and (C) of this 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 4(B), then this Agreement shall not be extended.**

13. **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. The City may request that the Consultant perform Extra Services. As used herein, "Extra Services" means any services, which are determined by the City to be necessary for the proper completion of the project, but which the Parties did not reasonably anticipate would be necessary at the execution of this Agreement. A written amendment signed by both Parties shall be required to authorize performance of and payment for Extra Services.

14. **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 22 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.

15. **CALTRANS GRANT FUNDING REQUIREMENTS .** The Request for Proposal for this Agreement included a Section that placed Consultant on Notice that the Agreement and associated Scope of Work is being funded in whole or in part grant funds in accordance with a Restricted Grant Agreement between the City of Oxnard and the California Department of Transportation. A Federal & State Funding Requirements Addendum for CalTrans Projects is attached in its entirety as Exhibit E and incorporated herein by this reference. Consultant herein agrees to and shall comply with all requirements and provisions of Exhibit E. To the extent there is a conflict in the terms of this Agreement and the terms in Exhibit E, the terms in Exhibit E shall control.

16. **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, subconsultants, 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 T 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, subconsultants, or employees are in any manner agents, subconsultants, or employees of City.

17. **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.

18. **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.

19. **STANDARD OF PERFORMANCE; WARRANTY.** Consultant agrees to perform all Services required by this Agreement in a professional and competent manner, in accordance with the degree of skill and diligence which is normally employed by reputable professionals performing similar Services under similar conditions in the same or similar locality. Such Services shall also be performed in a manner which is

reasonably satisfactory to City Project Manager, or designee (hereinafter the "Project Manager"), provided that discretion in determining what is satisfactory shall not alter the foregoing standard of care.

A. In accordance with the standard of care set forth in the first sentence of Section 19, the Consultant agrees that it:
(1) Has thoroughly reviewed and considered the services and work to be performed; and
(2) Has reviewed the issues regarding the Scope of Services to be provided; and
(3) Has carefully considered how the services and related work should be performed; and
(4) Fully understands the facilities, difficulties and restrictions associated with performance of the services required by this Agreement.

20. OWNERSHIP OF CONSULTANT'S WORK PRODUCT, CONFIDENTIALITY & DISCLOSURE, RECORDS & WARRANTY. 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.

A. 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.
B. 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.
C. Records and Inspections**.** The Consultant shall maintain full and accurate records, with respect to all Services and matters covered under this Agreement. Books and records pertaining to costs shall be kept and

prepared in accordance with generally accepted accounting principles. 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.

D. 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 7920.505) and may contain "trade secrets" (see Government Code Section 7924.510(f)) 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 7920.515.

E. 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.

F. 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.

21. **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.

22. 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 7. 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.

23. INDEMNIFICATION, HOLD HARMLESS & DEFENSE. Except as set forth in Subsection b of this Section 23, and to the fullest extent permitted by law, Consultant shall immediately defend, indemnify, and hold harmless the City, its officers, employees, representatives, and agents (the "City Indemnitees"), from and against those actions, suits, proceedings, claims, demands, losses, costs, and expenses, including legal costs and reasonable attorneys' fees, for any personal injuries, deaths, or property damage, including property owned by the City (collectively "Claims") which may arise out of Consultant's negligence or willful misconduct in the performance of the services described in this Agreement, unless such Claims are proven to be caused by the negligence or willful misconduct of the City Indemnitees.

A. The provisions of this Subsection b 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.
(1) Notwithstanding the provisions of Section 23 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 City 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.
(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 b shall be construed to require Consultant to provide indemnification for Claims caused by the active negligence or willful misconduct of the City Indemnitees

B. The City does not and shall not waive any rights that it may have against Consultant under this Section, because of the acceptance by the City, or the deposit with the City, of any insurance policy or certificate required pursuant to this Agreement. The hold harmless and indemnification provisions of this Section 23 shall apply regardless of whether said insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost, or expense described herein.

C. The obligation to indemnify and defend, as set forth in this Section 23, is binding on the successors, assigns, or heirs of Consultant and shall survive the expiration or any early termination of this Agreement.

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 F” 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 Living Wage is updated on July 1 of each year, and the duty to pay the correct wage is the responsibility of the Consultant.

26. PREVAILING WAGE REQUIREMENTS. 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. For further information regarding Prevailing Wage Requirements please refer to Exhibit "G" attached to this Agreement.

A. To determine if this Agreement is subject to compliance monitoring and enforcement, go to: https://www.dir.ca.gov/Public-Works/PublicWorksSB854FAQ.html
B. 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.
C. In the event that there is a difference between the amount of wages to be paid under the City of Oxnard's local Living Wage requirements and the requirements of this provision, the wage rate that is the higher of the two shall be applicable to this Agreement. The duty to pay the correct wage is the responsibility of the Consultant.

27. IRAN CONTRACTING ACT. In accordance with the Iran Contract Act of 2010 (Public Contract Code sections 2200-2208) the City requires that any Consultant that submits a proposal or otherwise proposes to enter into or renew a contract with the City with respect to goods or Services of one million dollars ($1,000,000) or more, must certify, that the Consultant is not identified on a list created pursuant to subdivision (b) of Public Contract Code Section 2203 as a person engaging in investment activities in Iran described in subdivision (a) of Public Contract Code Section 2202.5, or as a person described in subdivision (b) of Public Contract Code Section 2202.5, as applicable.

A Consultant is ineligible to enter into any contract with the City for goods or Services of one million dollars ($1,000,000) or more if the Consultant engages in investment activities in Iran. Consultant must certify that it is not on the list of ineligible vendors prohibited from doing business with the State of California and shall complete the Iran Contract Act Certification attached as Exhibit H.

28. SUBCONTRACTING. If Consultant requires the assistance of a subcontractor to render any Services under this Agreement, Consultant shall obtain prior written consent from the City before a subcontractor performs any service pursuant to this Agreement. All subcontractors shall be identified in the Scope of Work attached to this Agreement as "Exhibit A". Consultant is fully responsible for satisfactory completion of all its

subcontractors' work. All subcontractors shall be properly licensed and insured; and bonded, if applicable. Consultant shall be responsible for all liabilities regardless of nature, type, or cause, arising out of or resulting from or in connection with subcontractors performance pursuant to this Agreement or subcontractors failure to comply with any of its obligations in connection with this Agreement.

29. **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.

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. **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.

33. **CARE OF WORK.** Should Consultant discover any latent or unknown conditions materially differing from those inherent in the Services or as represented by the City, Consultant shall immediately inform the City of such fact and shall not provide any Services, except at Consultant's risk, until written instructions are received from the Project Manager.

34. **REPORTS.** Upon request by the Project Manager or as otherwise required by this Agreement, including but not limited to, the Scope of Services set forth in Exhibit "A", Consultant shall prepare and submit reports to the City concerning Consultant's performance of the Services required by this Agreement.

35. **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.

36. **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.

37. **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.

38. **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.

39. **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.

40. **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.

41. **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.

42. **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.

43. **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.

44. **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.

45. **AUTHORITY TO EXECUTE.** Each Party hereto expressly warrants and represents that the signatories to this Agreement have the authority to execute this Agreement on behalf of its corporation, partnership, business entity, or governmental entity, and warrants and represents that the signatories have the authority to bind each Party to the performance of its obligations hereunder.

46. **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 or electronic 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.

47. **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 and 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.

48. **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.
49. **ACKNOWLEDGEMENT.** By signing below, Consultant acknowledges that it has reviewed the City's 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 4 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)

KIMLEY-HORN AND ASSOCIATES, INC.

Sri Chakravarthy Date
Senior Vice President

Sowmya Chandrasekhar Date
Assistant Secretary [3]

[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

PROFESSIONAL SERVICE AGREEMENT
(CITY of Oxnard and Kimley-Horn and Associates, Inc.)

SCOPE OF SERVICES

PROJECT MANAGER: Debbie O'Leary / 805-200-5283 / debbie.oleary@oxnard.org

Licensing and Professional Certification

Required: The services and abilities required to successfully perform traffic signal operations and engineering include, but are not limited to:

1. PS&E work shall be performed by a California-registered Civil Engineer and/or Traffic Engineer.
2. Land survey work required for PS&E shall be performed by a California-licensed Land surveyor.
3. Understanding and application of Federal, State, and City Engineering Standards, to include but not be not limited to: Institute of Transportation Engineers (ITE) Trip and Parking Generation Manuals, California Manual on Uniform Traffic Control Devices (CA MUTCD), National Association of City Transportation Officials (NACTO), CA Standard Plans and Specifications, City of Oxnard zoning ordinance and General Plan, beside others.
4. Knowledge and understanding of the use of and requirements of federal and state documentation associated with grant-funded projects.
5. Understanding and application of relevant operational and traffic analyses and modeling software such as Synchro, SIDRA, and Travel Demand Modeling such as Visum, TransCad, CUBE, and EMME2.
6. Understanding of environmental regulations relevant to the transportation system.
7. Understanding and ability to review civil improvement plans for compliance with disabled access requirements, circulation impacts or improvements, application of State and local laws, ordinances, and the City's Municipal Code.
8. Compliance with applicable prevailing wages as determined by California Department of Industrial Relations and Federal, State and local laws.
9. Minimum of 5 years experience providing Traffic Engineering services to municipalities of similar size or sufficient experience in transportation planning and traffic engineering. Specifically, experience should include but not be limited to: traffic safety studies, traffic operational studies, warrant analysis, traffic signal operations, conceptual roadway and intersection designs, data collection, traffic modeling and travel demand modeling.
10. Experience or knowledge of City of Oxnard local issues and ability to perform local site visits as needed and/or requested by the Traffic Engineering Division.

The following list includes anticipated tasks associated with, **providing traffic signal modification and operations engineering and design services**. Work will involve assisting with capital improvement and special projects. This list is not all-inclusive.

1. Traffic signal improvement and operation projects requiring preliminary engineering and/or feasibility studies.
2. Traffic signal design including but not limited to new signals, signal modifications, signal communication, etc.
3. Traffic data collection in support of analyzing potential improvements to traffic signal functionality and operation.
4. Traffic signal operation analyses and operation improvements including signal coordination systems.
5. Traffic management plan development as related to traffic signal improvement or operation projects.
6. Traffic signal modification design services consisting of all items of work necessary to finalize design and complete Final Plans, Specifications & Estimates (PS&E) for bidding capital projects. Deliverables of PS&E work include:
    a. Provide Project Management to include but not limited to
        i. Schedule and conduct a kick-off meeting with City Staff and as-needed project development team (PDT) meetings (virtual or in-person);
        ii. Provide timeline, schedule and workflow per task with critical path, milestones and deliverables;
        iii. Provide deliverables, detailed progress reports, invoices per the schedule
    b. Use surveying services to accurately identify Right of Way (ROW);
    c. Identify if all work will take place within the City right of way or if any easements/ROW acquisitions are required;
    d. Obtain and review as-built plans, reports, maps, and data at the City of Oxnard Service Center, 214 S. C Street, where data can be accessed (not all data is available online);
    e. Complete field investigations to assess existing conditions for the purpose of identifying any additional work necessary but not previously included in any project grant applications, and for creating base plans;
    f. Base plans should be created for traffic signal modification plans, accessible pedestrian push buttons, civil engineering plans, signage and striping plans, and landscape plans (if any);
    g. Research and document all utilities within the project limits, which includes correspondence sent on behalf of the City to the utility companies;
    h. Plans, specifications and estimates shall be submitted to the City for review and comment at the 65%, 95%, and 100% PS&E stages;
    i. Respond to comments from bidding staff on the 100% specifications in order to provide a ready-to-bid package;

j. During the bid phase, respond to bidder questions; and
k. Provide design support during the construction phase.

7. Prepare and deliver presentations to the City Council, Public Works Transportation Committee, Planning Commission, and others.

EXHIBIT B

PROFESSIONAL SERVICE AGREEMENT
(CITY of Oxnard and Kimley-Horn and Associates, Inc.)

SCHEDULE OF COMPENSATION

KIMLEY-HORN AND ASSOCIATES, INC.	
Classifications	**Hourly Labor Rate**
Analyst I	$120 - $150
Analyst II	$160 - $185
Professional	$185 - $215
Senior Professional I	$240 - $310
Senior Professional II	$315 - $365
Senior Technical Support	$110 - $290
Technical Support	$100 - $165
Support Staff	$80 - $135
Sub-Consultant	Cost + 10%
Reimbursable Expenses	Cost + 10%

NATIONAL DATA & SURVEYING SERVICES	
Turning Movement Counts (Per location including Peds and Bikes)	
Classification	**Hourly Labor Rate**
4 Hour (1 Person)	$290
6 Hour (1 Person)	$420
Road Tube Machine Counts (Per Location)	
24-Hour Volume Count	$135
Each Additional (Consecutive) Day	$65
24-Hour Classification OR Speed Count	$145 - $215 (single or multi-lane)
Each Additional (Consecutive) Day	$70 - $90
24-Hour Classification AND Speed Count	$175 - $245
Each Additional (Consecutive) Day	$100 - $120
Additional Services	
Camera Install (Up to 24 hours)	$295
Each Additional (Consecutive) Day	$150
Vehicle Video Review (Per Hour)	$30
Spot Speed Review (100 Cars OR 2 Hour Max, whichever comes first)	$145
Fuel Surcharge	$50 - $100+

ENCOMPASS CONSULTANT GROUP (ECG)	
ENGINEERING	
Classification	**Hourly Labor Rate**
Designer	$95
Senior Designer	$145
Assistant Engineer I	$150
Assistant Engineer II	$160
Associate Engineer	$170
Senior Engineer I	$180
Senior Engineer II	$195
Principal Engineer I	$215
Principal Engineer II	$235
GEOMATICS (Surveying & Mapping)	
Surveying Technician	$95
Assistant Surveyor I	$150
Assistant Surveyor II	$160
Associate Surveyor	$170
Senior Surveyor I	$180
Senior Surveyor II	$195
Principal Surveyor I	$215
Principal Surveyor II	$235
One-Man Survey Crew	$185
Two-Man Survey Crew	$270
Three-Man Survey Crew	$360
One-Man Survey Crew (Prevailing Wage)	$210
Two-Man Survey Crew (Prevailing Wage)	$315
Three-Man Survey Crew (Prevailing Wage)	$450
GENERAL	
Technical/Clerical Support	$95
Testimony (Trial or Deposition)	2.5 x Hourly Rate
Special Consultant (Principal with specialized skills in engineering or geomatics)	$250
Outside Consultant	Cost + 10%
Reimbursable Expenses	Cost + 10%

EXHIBIT C

PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Kimley-Horn and Associates, Inc.)

INSURANCE REQUIREMENTS

Prior to contract approval and beginning of services under this agreement, 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.

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. If you have not received your request or are having difficulty with electronic upload, contact insurance@oxnard.org

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

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

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

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

7. All insurance standards applicable to Consultant shall also be applicable to Consultant's subconsultants. Consultant agrees to maintain appropriate agreements with subconsultants and to provide proper evidence of coverage upon receipt of a written request from the Risk Manager.10/24

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

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

Endorsement Forms

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

INS-A.doc

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER

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

CODE SUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY LETTER A SPECIFY COMPANY NAMES IN THIS SPACE

COMPANY LETTER B

COVERAGES

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

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

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

CERTIFICATE HOLDER

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

CANCELLATION

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

AUTHORIZED REPRESENTATIVE

GENERAL LIABILITY SPECIAL ENDORSEMENT

FOR THE CITY OF OXNARD (the "City")

SUBMIT IN DUPLICATE

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

PRODUCER

Telephone:

NAMED INSURED

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

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

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

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

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

OTHER PROVISIONS

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

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

Name: _____
Address: _____
_____
Telephone: (_____) _____

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

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")

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.

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

PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Kimley-Horn and Associates, Inc.)

RESTRICTED GRANT AGREEMENT

MASTER AGREEMENT
ADMINISTERING AGENCY-STATE AGREEMENT FOR STATE-FUNDED PROJECTS

07 City of Oxnard
District Administering Agency

Agreement No. 07-5129S21

This AGREEMENT, is entered into effective this 1st day of March, 20 22, by and between the City of Oxnard, hereinafter referred to as "ADMINISTERING AGENCY," and the State of California, acting by and through its Department of Transportation (Caltrans), hereinafter referred to as "STATE", and together referred to as "PARTIES" or individually as a "PARTY."

RECITALS:

1. WHEREAS, the Legislature of the State of California has enacted legislation by which certain State funds are made available for use on local transportation related projects of public entities qualified to act as recipients of these state funds; and

2. WHEREAS, ADMINISTERING AGENCY has applied to the California Transportation Commission (CTC) and/or STATE for funding from a State-funded program (herein referred to as STATE FUNDS), as defined in the Local Assistance Program Guidelines (LAPG) and/or in the respective CTC Guidelines, for use on local authorized transportation related projects as a local administered project(s), hereinafter referred to as "PROJECT"; and

3. WHEREAS, said PROJECT will not receive any federal funds; and

4. WHEREAS, before STATE FUNDS will be made available for PROJECT, ADMINISTERING AGENCY and STATE are required to enter into an agreement to establish terms and conditions applicable to the ADMINISTERING AGENCY when receiving STATE FUNDS for a designated PROJECT facility and to the subsequent operation and maintenance of that completed facility.

NOW, THEREFORE, the PARTIES agree as follows:

CG:..:NCILAPPROVED
/?.. -O /-w22.. I(1)

ARTICLE I - PROJECT ADMINISTRATION

1. This AGREEMENT shall have no force or effect with respect to any program project unless and until a project- specific Program Supplement to this AGREEMENT for state funded projects, hereinafter referred to as "PROGRAM SUPPLEMENT", has been fully executed by both STATE and ADMINISTERING AGENCY.

2. The State approved project-specific allocation notification letter and approved CTC allocation documentation designate the party responsible for implementing PROJECT, type of work, and location of PROJECT for projects requiring CTC allocation by PROJECT component of work.

3. The PROGRAM SUPPLEMENT sets out special covenants as a condition for the ADMINISTERING AGENCY to receive STATE FUNDS from/through STATE for designated PROJECT. The PROGRAM SUPPLEMENT shall also show these STATE FUNDS that have been initially encumbered for PROJECT along with the matching funds to be provided by ADMINISTERING AGENCY and/or others. Execution of PROGRAM SUPPLEMENT by the PARTIES shall cause ADMINISTERING AGENCY to adopt all the terms of this AGREEMENT as though fully set forth therein in the PROGRAM SUPPLEMENT. Unless otherwise expressly delegated in a resolution by the governing body of ADMINISTERING AGENCY, and with written concurrence by STATE, the PROGRAM SUPPLEMENT shall be approved and managed by the governing body of ADMINISTERING AGENCY.

4. ADMINISTERING AGENCY agrees to execute and return each project-specific PROGRAM SUPPLEMENT. The PARTIES agree that STATE may suspend future allocations, encumbrances and invoice payments for any on- going or future STATE FUNDED PROJECT performed by ADMINISTERING AGENCY if any project-specific PROGRAM SUPPLEMENT is not returned, unless otherwise agreed by STATE in writing.

5. ADMINISTERING AGENCY further agrees, as a condition to the release and payment of STATE FUNDS encumbered for the PROJECT described in each PROGRAM SUPPLEMENT, to comply with the terms and conditions of this AGREEMENT and all the agreed-upon Special Covenants or Remarks incorporated within the PROGRAM SUPPLEMENT, and Cooperative/Contribution Agreement where appropriate, defining and identifying the nature of the specific PROJECT.

6. STATE FUNDS will not participate in any portion of PROJECT work performed in advance of the effective date of allocation by CTC, or by STATE for allocations delegated to STATE by CTC, for said PROJECT.

7. Projects allocated with STATE FUNDS will be administered in accordance with the current CTC STIP Guidelines, applicable chapter(s) of the LAPG, LAPM and/or any other instructions published by STATE.

8. ADMINISTERING AGENCY agrees to ensure compliance with all relevant State laws and requirements for work related to PROJECT, including the California Environmental Quality Act (CEQA).

9. ADMINISTERING AGENCY's eligible costs for preliminary engineering work includes all preliminary work directly related to PROJECT up to contract award for construction, including, but not limited to, environmental studies and permits (E&P), preliminary surveys and reports, laboratory work, soil investigations, the preparation of plans, specifications and estimates (PS&E), advertising for bids, awarding of a contract and project development contract administration.

10. ADMINISTERING AGENCY's eligible costs for construction engineering include actual inspection and supervision of PROJECT construction work; construction staking; laboratory and field testing; and the preparation and processing of field reports, records, estimates, final reports, and allowable expenses of employees/consultants engaged in such activities.

11. Unless the PARTIES agree otherwise in writing, ADMINISTERING AGENCY's employees or its contracted engineering consultant shall be responsible for all PROJECT engineering work.

12. ADMINISTERING AGENCY shall not proceed with final design of PROJECT until final environmental approval of PROJECT. Final design entails the design work necessary to complete the PS&E and other work necessary for a construction contract but not required earlier for environmental clearance of that PROJECT.

13. If PROJECT is not on STATE-owned right-of-way, PROJECT shall be constructed in accordance with Chapter 11 of the LAPM that describes minimum statewide design standards for local agency streets and roads. The design standards for projects off the National Highway System (NHS) allow STATE to accept either the current Caltrans Highway Design Manual standards, the current FHWA-adopted American Association of State Highway and Transportation Officials (AASHTO) A Policy on Geometric Design of Highways and Streets standards, or the approved geometric design standards of ADMINISTERING AGENCY. Additionally, for projects off the NHS, STATE will accept ADMINISTERING AGENCY-approved standard specifications, standard plans, materials sampling and testing quality assurance programs that meet the conditions described in the then current Local Assistance Procedures Manual.

14. If PROJECT involves work within or partially within STATE-owned right-of-way, that PROJECT shall also be subject to compliance with the policies, procedures and standards of the STATE Project Development Procedures Manual and Highway Design Manual and where appropriate, an executed cooperative agreement between STATE and ADMINISTERING AGENCY that outlines the PROJECT responsibilities and respective obligations of the PARTIES. ADMINISTERING AGENCY and its contractors shall each obtain an encroachment permit through STATE prior to commencing any work within STATE rights-of-way or work which affects STATE facilities.

15. When PROJECT is not on the State Highway System (SHS) but includes work to be performed by a railroad, the contract for such work shall be prepared by ADMINISTERING AGENCY or by STATE, as the PARTIES may hereafter agree. In either event, ADMINISTERING AGENCY shall enter into an agreement with the railroad providing for future maintenance of protective devices or other facilities installed under the contract.

16. ADMINISTERING AGENCY shall comply with the provisions of sections 4450 and 4454 of the California Government Code, as well as other Department of General Services guidance, if applicable, for the contract PS&E for the construction of buildings, structures, sidewalks, curbs and related facilities for accessibility and usability. Further requirements and guidance are provided in Title 24 of the California Code of Regulations.

17. ADMINISTERING AGENCY shall provide a full-time public employee to be in responsible charge of each PROJECT. ADMINISTERING AGENCY shall provide or arrange for adequate supervision and inspection of each PROJECT. ADMINISTERING AGENCY may utilize consultants to perform supervision and inspection work for PROJECT with a fully qualified and licensed engineer. Utilization of consultants does not relieve ADMINISTERING AGENCY of its obligation to provide a full-time public employee to be in responsible charge of each PROJECT.

18. Unless otherwise provided in the PROGRAM SUPPLEMENT, ADMINISTERING AGENCY shall advertise, award, and administer the PROJECT construction contract or contracts.

19. The cost of maintenance, security, or protection performed by ADMINISTERING AGENCY or contractor forces during any temporary suspension of PROJECT or at any other time may not be charged to the PROJECT.

20. ADMINISTERING AGENCY shall submit PROJECT-specific award information to STATE's District Local Assistance Engineer, within sixty (60) days after contract award.

21. ADMINISTERING AGENCY shall submit the final report documents that collectively constitute a "Final Project Expenditure Report", LAPM Exhibit 17-M, within one hundred eighty (180) days of PROJECT completion. Failure by ADMINISTERING AGENCY to submit a "Final Project Expenditure Report", within 180 days of project completion will result in STATE imposing sanctions upon ADMINISTERING AGENCY in accordance with the Local Assistance Procedures Manual.

22. ADMINISTERING AGENCY shall comply with the Americans with Disabilities Act (ADA) of 1990 that prohibits discrimination on the basis of disability and all applicable regulations and guidelines issued pursuant to the ADA.

23. The Governor and the Legislature of the State of California, each within their respective jurisdictions, have prescribed certain nondiscrimination requirements with respect to contract and other work financed with public funds. ADMINISTERING

AGENCY agrees to comply with the requirements of the FAIR EMPLOYMENT PRACTICES ADDENDUM, attached hereto as Exhibit A and further agrees that any agreement entered into by ADMINISTERING AGENCY with a third party for performance of work connected with PROJECT shall incorporate Exhibit A (with third party's name replacing ADMINISTERING AGENCY) as parts of such agreement.

24. ADMINISTERING AGENCY shall include in all contracts and subcontracts awarded when applicable, a clause that requires each subcontractor to comply with California Labor Code requirements that all workers employed on public works aspects of any project (as defined in California Labor Code sections 1720-1815) be paid not less than the general prevailing wage rates predetermined by the Department of Industrial Relations as effective at the date of contract award by the ADMINISTERING AGENCY.

ARTICLE II - RIGHTS-OF-WAY

1. No contract for the construction of a STATE FUNDED PROJECT shall be awarded until all necessary rights of way have been secured. Prior to the advertising for construction of PROJECT, ADMINISTERING AGENCY shall certify and, upon request, shall furnish STATE with evidence that all necessary rights-of-way are available for construction purposes or will be available by the time of award of the construction contract.

2. The furnishing of rights of way by ADMINISTERING AGENCY as provided for herein includes, and is limited to, the following, unless the PROGRAM SUPPLEMENT provides otherwise.

(a) Expenditures of capital and support to purchase all real property required for PROJECT free and clear of liens, conflicting easements, obstructions and encumbrances, after crediting PROJECT with the fair market value of any excess property retained and not disposed of by ADMINISTERING AGENCY.

(b) The cost of furnishing of right-of-way as provided for herein includes, in addition to real property required for the PROJECT, title free and clear of obstructions and encumbrances affecting PROJECT and the payment, as required by applicable law, of damages to owners of remainder real property not actually taken but injuriously affected by PROJECT.

(c) The cost of relocation payments and services provided to owners and occupants pursuant to Government Code sections 7260-7277 when PROJECT displaces an individual, family, business, farm operation or nonprofit organization.

(d) The cost of demolition and/or the sale of all improvements on the right-of-way after credit is recorded for sale proceeds used to offset PROJECT costs.

(e) The cost of all unavoidable utility relocation, protection or removal.

(f) The cost of all necessary hazardous material and hazardous waste treatment, encapsulation or removal and protective storage for which ADMINISTERING AGENCY accepts responsibility and where the actual generator cannot be identified, and recovery made.

3. ADMINISTERING AGENCY agrees to indemnify and hold STATE harmless from any liability that may result in the event the right-of-way for a PROJECT is not clear as certified by ADMINISTERING AGENCY, including, but not limited to, if said right-of-way is found to contain hazardous materials requiring treatment or removal to remediate in accordance with Federal and State laws. ADMINISTERING AGENCY shall pay, from its own non- matching funds, any costs which arise out of delays to the construction of PROJECT because utility facilities have not been timely removed or relocated, or because rights-of-way were not available to ADMINISTERING AGENCY for the orderly prosecution of PROJECT work.

ARTICLE III - MAINTENANCE AND MANAGEMENT

1. ADMINISTERING AGENCY will maintain and operate the property acquired, developed, constructed, rehabilitated, or restored by PROJECT for its intended public use until such time as the parties might amend this AGREEMENT to otherwise provide. With the approval of STATE, ADMINISTERING AGENCY or its successors in interest in the PROJECT property may transfer this obligation and responsibility to maintain and operate PROJECT property for that intended public purpose to another public entity.

2. Upon ADMINISTERING AGENCY's acceptance of the completed construction contract or upon contractor being relieved of the responsibility for maintaining and protecting PROJECT, ADMINISTERING AGENCY will be responsible for the maintenance, ownership, liability, and the expense thereof, for PROJECT in a manner satisfactory to the authorized representatives of STATE and if PROJECT falls within the jurisdictional limits of another Agency or Agencies, it is the duty of ADMINISTERING AGENCY to facilitate a separate maintenance agreement(s) between itself and the other jurisdictional Agency or Agencies providing for the operation, maintenance, ownership and liability of PROJECT. Until those agreements are executed, ADMINISTERING AGENCY will be responsible for all PROJECT operations, maintenance, ownership and liability in a manner satisfactory to the authorized representatives of STATE. If, within ninety (90) days after receipt of notice from STATE that a PROJECT, or any portion thereof, is not being properly operated and maintained and ADMINISTERING AGENCY has not satisfactorily remedied the conditions complained of, the approval of future STATE FUNDED PROJECTS of ADMINISTERING AGENCY will be withheld until the PROJECT shall have been put in a condition of operation and maintenance satisfactory to STATE. The provisions of this section shall not apply to a PROJECT that has been vacated through due process of law with STATE's concurrence.

3. PROJECT and its facilities shall be maintained by an adequate and well-trained staff of engineers and/or such other professionals and technicians as PROJECT reasonably requires. Said operations and maintenance staff may be employees of ADMINISTERING

AGENCY, another unit of government, or a contractor under agreement with ADMINISTERING AGENCY. All maintenance will be performed at regular intervals or as required for efficient operation of the complete PROJECT improvements.

4. ADMINISTERING AGENCY shall comply with all applicable law, including but not limited to, all applicable legal authority regarding construction standards.

ARTICLE IV - FISCAL PROVISIONS

1. All contractual obligations of STATE are subject to the appropriation of resources by the Legislature and the allocation of resources by the CTC.

2. STATE'S financial commitment of STATE FUNDS will occur only upon the execution of this AGREEMENT, the execution of each project-specific PROGRAM SUPPLEMENT and/or STATE's approved finance letter.

3. ADMINISTERING AGENCY agrees, as a minimum, to submit invoices in arrears for reimbursement of allowable PROJECT costs at least once every six months commencing after the STATE FUNDS are encumbered on either the project-specific PROGRAM SUPPLEMENT or through a project-specific finance letter approved by STATE. STATE reserves the right to suspend future allocations and invoice payments for any on-going or future STATE FUNDED project performed by ADMINISTERING AGENCY if PROJECT costs have not been invoiced by ADMINISTERING AGENCY for a six-month period

4. Invoices shall be submitted on a standardized billing summary template, in accordance with Chapter 5 of the LAPM to claim reimbursement by ADMINISTERING AGENCY. For construction invoices, pay estimates must be included.

5. ADMINISTERING AGENCY must retain at least one copy of supporting backup documentation for allowable costs incurred and claimed for reimbursement by ADMINISTERING AGENCY. ADMINISTERING AGENCY agrees to submit supporting backup documentation with invoices if requested by State. Acceptable backup documentation includes, but is not limited to, agency's progress payment to the contractors, copies of cancelled checks showing amounts made payable to vendors and contractors, and/or a computerized summary of PROJECT costs.

6. Payments to ADMINISTERING AGENCY can only be released by STATE as reimbursements of actual allowable PROJECT costs already incurred and paid for by the ADMINISTERING AGENCY.

7. Indirect Cost Allocation Plans/Indirect Cost Rate Proposals (ICAP/ICRP), Central Service Cost Allocation Plans and related documentation are to be prepared and provided to the Inspector General - Independent Office of Audits and Investigations for review and approval prior to ADMINISTERING AGENCY seeking reimbursement of indirect cost incurred within each fiscal year being claimed for reimbursement.

ICAPs/ICRPs must be prepared in accordance with the requirements set forth in 2 CFR, Part 200, Chapter 5 of the LAPM, and the ICAP/ICRP approval procedures established by STATE.

8. STATE will withhold the greater of either two (2) percent of the total of all STATE FUNDS encumbered for each PROGRAM SUPPLEMENT or $40,000 until ADMINISTERING AGENCY submits the Final Report of Expenditures for each completed PROGRAM SUPPLEMENT PROJECT.

9. The estimated total cost of PROJECT, the amount of STATE FUNDS obligated, and the required matching funds may be adjusted by mutual consent of the PARTIES with a finance letter, and an allocation notification letter when applicable. STATE FUNDING may be increased to cover PROJECT cost increases only if such additional funds are available and the CTC and/or STATE concurs with that increase in the form of an allocation and finance letter.

10. When such additional STATE FUNDS are not available, ADMINISTERING AGENCY agrees that any increases in PROJECT costs must be defrayed with ADMINISTERING AGENCY's own funds.

11. ADMINISTERING AGENCY shall use its own non-STATE FUNDS to finance the local share of eligible costs and all PROJECT expenditures or contract items ruled ineligible for financing with STATE FUNDS. STATE shall make the final determination of ADMINISTERING AGENCY's cost eligibility for STATE FUNDED financing with respect to claimed PROJECT costs.

12. ADMINISTERING AGENCY will reimburse STATE for STATE's share of costs for work performed by STATE at the request of ADMINISTERING AGENCY. STATE's costs shall include overhead assessments in accordance with section 8755.1 of the State Administrative Manual.

13. STATE FUNDS allocated by the CTC and/or STATE are subject to the timely use of funds provisions approved in CTC Guidelines and State procedures approved by the CTC and STATE.

14. STATE FUNDS encumbered for PROJECT are available for liquidation only for a limited period from the beginning of the State fiscal year when those funds were appropriated in the State Budget. STATE FUNDS not liquidated within these periods will be reverted unless a Cooperative Work Agreement (CWA) is submitted by ADMINISTERING AGENCY and approved by the California Department of Finance in accordance with Section 16304 of the Government Code. The exact date of fund reversion will be reflected in the STATE signed PROJECT finance letter.

15. Payments to ADMINISTERING AGENCY for PROJECT-related travel and subsistence (per diem) expenses of ADMINISTERING AGENCY forces and its contractors and subcontractors claimed for reimbursement or as local match credit shall

not exceed rates authorized to be paid to rank and file STATE employees under current California Department of Human Resources (CalHR) rules unless a Cooperative Work Agreement (CWA) is submitted by ADMINISTERING AGENCY and approved by the California Department of Finance in accordance with Government Code section 16304. If the rates invoiced by ADMINISTERING AGENCY are in excess of CalHR rates, ADMINISTERING AGENCY is responsible for the cost difference, and any overpayments inadvertently paid by STATE shall be reimbursed to STATE by ADMINISTERING AGENCY on demand.

16. ADMINISTERING AGENCY agrees to comply with California Government Code 4525- 4529.14. Administering Agency shall undertake the procedures described in California Government Code 4527(a) and 4528(a). Administering Agency shall also comply with 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles and Audit Requirement for Federal Awards, excluding 2 CFR Part 200.318-200.326.

17. ADMINISTERING AGENCY agrees and will assure that its contractors and subcontractors will be obligated to agree that Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31, et seq., shall be used to determine the allowability of individual PROJECT cost items.
Every recipient and sub-recipient receiving PROJECT funds under this AGREEMENT shall comply with Federal administrative procedures in accordance with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirement for Federal Awards, excluding 2 CFR Part 200.318-200.326Governments. ADMINISTERING AGENCY agrees to comply with the provisions set forth in 23 CFR Parts 140, 645 and 646 when contracting with railroad and utility companies.

18. Every recipient and sub-recipient receiving PROJECT funds under this AGREEMENT shall comply with 2 CFR 200 excluding 2 CFR Part 200.318-200.326, 48 CFR Chapter 1, Part 31, LAPM, Public Contract Code (PCC) 10300- 10334 (procurement of goods), PCC 10335-10381 (non-A&E services), California Government Code 4525-4529.5 including 4527(a) and 4528(a), and other applicable STATE regulations.

19. Any PROJECT costs for which ADMINISTERING AGENCY has received payment or credit that are determined by subsequent audit to be questioned, disallowed, or unallowable under 2 CFR, Part 200, 48 CFR, Chapter 1, Part 31, 23 CFR Parts 140, 645 and 646, LAPM, Public Contract Code (PCC) 10300-10334 (procurement of goods), PCC 10335-10381 (non-A&E services), California Government Code 4525-4529.5 including 4527(a) and 4528(a), and other applicable STATE regulations are subject to repayment by ADMINISTERING AGENCY to STATE and may result in STATE imposing sanctions on ADMINISTERING AGENCY as described in Chapter 20 of the Local Assistance Procedures Manual.

20. Should ADMINISTERING AGENCY fail to refund any moneys due upon written demand by STATE as provided herein or should ADMINISTERING AGENCY breach this AGREEMENT by failing to complete PROJECT without adequate justification and approval by STATE, then, within thirty (30) days of demand, or within such other period

as may be agreed to in writing between the PARTIES hereto, STATE, acting through the State Controller, the State Treasurer, the CTC or any other public entity or agency, may intercept, withhold and demand the transfer of an amount equal to the amount paid by or owed to STATE for each PROJECT, from future apportionments, or any other funds due ADMINISTERING AGENCY from the Highway Users Tax Fund or any other sources of funds, and/or may also withhold approval of future STATE FUNDED projects proposed by ADMINISTERING AGENCY.

21. Should ADMINISTERING AGENCY be declared to be in breach of this AGREEMENT or otherwise in default thereof by STATE, and if ADMINISTERING AGENCY is constituted as a joint powers authority, special district, or any other public entity not directly receiving funds through the State Controller, STATE is authorized to obtain reimbursement from whatever sources of funding are available, including the withholding or transfer of funds, 20from those constituent entities comprising a joint powers authority or by bringing of an action against ADMINISTERING AGENCY or its constituent member entities, to recover all funds provided by STATE hereunder.

22. ADMINISTERING AGENCY acknowledges that the signatory party represents the ADMINISTERING AGENCY and further warrants that there is nothing within a Joint Powers Agreement, by which ADMINISTERING AGENCY was created, if any exists, that would restrict or otherwise limit STATE's ability to recover STATE FUNDS improperly spent by ADMINISTERING AGENCY in contravention of the terms of this AGREEMENT.

ARTICLE V

AUDITS, THIRD PARTY CONTRACTING, RECORDS RETENTION AND REPORTS

1. STATE reserves the right to conduct technical and financial audits of PROJECT work and records and ADMINISTERING AGENCY agrees, and shall require its contractors and subcontractors to agree, to cooperate with STATE by making all appropriate and relevant PROJECT records available for audit and copying as required by paragraph three (3) of Article V.

2. ADMINISTERING AGENCY, its contractors and subcontractors shall establish and maintain a financial management system and records that properly accumulate and segregate reasonable, allowable, and allocable incurred PROJECT costs and matching funds by line item for the PROJECT. The financial management system of ADMINISTERING AGENCY, its contractors and all subcontractors shall conform to Generally Accepted Accounting Principles, enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices sent to or paid by STATE.

3. ADMINISTERING AGENCY, ADMINISTERING AGENCY's contractors and subcontractors, and STATE shall each maintain and make available for inspection and audit by STATE, the California State Auditor, or any duly authorized representative of STATE or the United States, all books, documents, papers, accounting records, and other

evidence pertaining to the performance of such contracts, including, but not limited to, the costs of administering those various contracts, and ADMINISTERING AGENCY shall furnish copies thereof if requested. All of the above-referenced parties shall make such AGREEMENT and PROGRAM SUPPLEMENT materials available at their respective offices at all reasonable times during the entire PROJECT period and for three (3) years, or 35 years for Prop 1B funds, from the date of final payment to ADMINISTERING **AGENCY.**

4. ADMINISTERING AGENCY shall not award a construction contract over $25,000 on the basis of a noncompetitive negotiation for work to be performed under this AGREEMENT without the prior written approval of STATE. All contracts awarded by ADMINISTERING AGENCY intended or used as local match credit must meet the requirements set forth in this AGREEMENT regarding local match funds.

5. ADMINISTERING AGENCY shall comply with Chapter 10 (commencing with Section 4525) Division 5 of Title 1 of the Government Code and shall undertake the procedures described in California Government Code 4527(a) and 4528(a). Administering Agency shall comply with Chapter 10 of the LAPM for A&E Consultant Contracts.

6. ADMINISTERING AGENCY shall comply with Government Code Division 5 Title 1 sections 4525-4529.5 and shall undertake the procedures described in California Government Code 4527(a) and 4528(a) for procurement of professional service contracts. Administering Agency shall follow Public Contract Code Section 10335-10381 for other professional service contracts.

7. Any subcontract entered into by ADMINISTERING AGENCY as a result of this AGREEMENT shall contain all of the provisions of Article IV, FISCAL PROVISIONS, and this ARTICLE V, AUDITS, THIRD-PARTY CONTRACTING, RECORDS RETENTION AND REPORTS and shall mandate that travel and per diem reimbursements and third party contract reimbursements to subcontractors will be allowable as PROJECT costs only after those costs are incurred and paid for by the subcontractors.

8. To be eligible for local match credit, ADMINISTERING AGENCY must ensure that local match funds used for a PROJECT meet the fiscal provisions requirements outlined in ARTICLE IV in the same manner that is required of all other PROJECT expenditures.

9. Except as provided in this Article, this AGREEMENT is solely between and for the benefit of the PARTIES and there are no third-party beneficiaries.

ARTICLE VI - MISCELLANEOUS PROVISIONS

1. ADMINISTERING AGENCY agrees to use all PROJECT funds reimbursed hereunder only for transportation purposes that are in conformance with Article XIX of the California State Constitution and other California laws.

2. ADMINISTERING AGENCY shall conform to all applicable State and Federal statutes and regulations, and the Local Assistance Program Guidelines and Local Assistance

Procedures Manual as published by STATE and incorporated herein, including all subsequent approved revisions thereto applicable to PROJECT unless otherwise designated in the project-specific executed PROJECT SUPPLEMENT.

3. This AGREEMENT is subject to any additional restrictions, limitations, conditions, or any statute enacted by the State Legislature or adopted by the CTC that may affect the provisions, terms, or funding of this AGREEMENT in any manner.

4. ADMINISTERING AGENCY and the officers and employees of ADMINISTERING AGENCY, when engaged in the performance of this AGREEMENT, shall act in an independent capacity and not as officers, employees or agents of STATE.

5. Each project-specific PROGRAM SUPPLEMENT shall separately establish the terms and funding limits for each described PROJECT funded under this AGREEMENT and that PROGRAM SUPPLEMENT. No STATE FUNDS are obligated against this AGREEMENT.

6. ADMINISTERING AGENCY certifies that neither ADMINISTERING AGENCY nor its principals are suspended or debarred at the time of the execution of this AGREEMENT, and ADMINISTERING AGENCY agrees that it will notify STATE immediately in the event a suspension or a debarment occurs after the execution of this AGREEMENT.

7. ADMINISTERING AGENCY certifies, by execution of this AGREEMENT, that no person or selling agency has been employed or retained to solicit or secure this AGREEMENT upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by ADMINISTERING AGENCY for the purpose of securing business. For breach or violation of this warranty, STATE has the right to annul this AGREEMENT without liability, pay only for the value of the PROJECT work actually performed, or in STATE's discretion, to deduct from the price of PROGRAM SUPPLEMENT consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

8. In accordance with Public Contract Code section 10296, ADMINISTERING AGENCY hereby certifies under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against ADMINISTERING AGENCY within the immediate preceding two (2) year period because of ADMINISTERING AGENCY's failure to comply with an order of a federal court that orders ADMINISTERING AGENCY to comply with an order of the National Labor Relations Board.

9. ADMINISTERING AGENCY shall disclose any financial, business, or other relationship with STATE that may have an impact upon the outcome of this AGREEMENT or any individual PROJECT encompassed within a PROGRAM SUPPLEMENT. ADMINISTERING AGENCY shall also list current contractors who may have a financial interest in the outcome of a PROJECT undertaken pursuant to this AGREEMENT. These

disclosures shall be delivered to STATE in a form deemed acceptable by the STATE prior to execution of this AGREEMENT.

10. ADMINISTERING AGENCY hereby certifies that it does not have, nor shall it acquire, any financial or business interest that would conflict with the performance of any PROJECT initiated under this AGREEMENT.

11. ADMINISTERING AGENCY certifies that this AGREEMENT was not obtained or secured through rebates, kickbacks or other unlawful consideration either promised or paid to any STATE employee. For breach or violation of this warranty, STATE shall have the right, in its sole discretion, to terminate this AGREEMENT without liability, to pay only for PROJECT work actually performed, or to deduct from a PROGRAM SUPPLEMENT price or otherwise recover the full amount of such rebate, kickback, or other unlawful consideration.

12. Any dispute concerning a question of fact arising under this AGREEMENT that is not disposed of by agreement shall be decided by the STATE's Contract Manager, who shall be identified to ADMINISTERING AGENCY at the time of execution of this AGREEMENT and, as applicable, any time that Contract Manager changes during the duration of this AGREEMENT who may consider any written or verbal evidence submitted by ADMINISTERING AGENCY. The decision of the Contract Manager, issued in writing, shall be conclusive and binding on the PARTIES on all questions of fact considered and determined by the Contract Manager.

13. Neither the pending of a dispute nor its consideration by the Contract Manager will excuse the ADMINISTERING AGENCY from full and timely performance in accordance with the terms of this AGREEMENT and each PROGRAM SUPPLEMENT.

14. Neither STATE nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by ADMINISTERING AGENCY under or in connection with any work, authority or jurisdiction of ADMINISTERING AGENCY arising under this AGREEMENT. It is understood and agreed that ADMINISTERING AGENCY shall fully defend, indemnify and save harmless STATE and all of its officers and employees from all claims and suits or actions of every name, kind and description brought forth under, including but not limited to, tortuous, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by ADMINISTERING AGENCY under this AGREEMENT.

15. Neither ADMINISTERING AGENCY nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by, under or in connection with any work, authority or jurisdiction arising under this AGREEMENT. It is understood and agreed that STATE shall fully defend, indemnify and save harmless the ADMINISTERING AGENCY and all of its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including but not limited to, tortuous, contractual, inverse

condemnation and other theories or assertions of liability occurring by reason of anything done or omitted to be done by STATE under this AGREEMENT.

16. In the event of (a) ADMINISTERING AGENCY failing to timely proceed with effective PROJECT work in accordance with the project-specific PROGRAM SUPPLEMENT; (b) failing to maintain any applicable bonding requirements; and (c) otherwise materially violating the terms and conditions of this AGREEMENT and/or any PROGRAM SUPPLEMENT, STATE reserves the right to terminate funding for that PROJECT upon thirty (30) days' written notice to ADMINISTERING AGENCY.

17. No termination notice shall become effective if, within thirty (30) days after receipt of a Notice of Termination, ADMINISTERING AGENCY either cures the default involved or, if the default is not reasonably susceptible of cure within said thirty (30) day period the ADMINISTERING AGENCY proceeds thereafter to complete that cure in a manner and time line acceptable to STATE.

18. Any such termination shall be accomplished by delivery to ADMINISTERING AGENCY of a Notice of Termination, which notice shall become effective not less than thirty (30) days after receipt, specifying the reason for the termination, the extent to which funding of work under this AGREEMENT and the applicable PROGRAM SUPPLEMENT is terminated and the date upon which such termination becomes effective, if beyond thirty (30) days after receipt. During the period before the effective termination date, ADMINISTERING AGENCY and STATE shall meet to attempt to resolve any dispute. In the event of such termination, STATE may proceed with the PROJECT work in a manner deemed proper by STATE. If STATE terminates funding for PROJECT with ADMINISTERING AGENCY for the reasons stated in paragraph sixteen (16) of ARTICLE VI, STATE shall pay ADMINISTERING AGENCY the sum due ADMINISTERING AGENCY under the PROGRAM SUPPLEMENT and/or STATE-approved finance letter prior to termination, provided, however, ADMINISTERING AGENCY is not in default of the terms and conditions of this AGREEMENT or the project-specific PROGRAM SUPPLEMENT and that the cost of any PROJECT completion to STATE shall first be deducted from any sum due ADMINISTERING AGENCY.

19. In the case of inconsistency or conflicts with the terms of this AGREEMENT and that of a project-specific PROGRAM SUPPLEMENT and/or Cooperative Agreement, the terms stated in that PROGRAM SUPPLEMENT and/or Cooperative Agreement shall prevail over those in this AGREEMENT.

20. Without the written consent of STATE, this AGREEMENT is not assignable by ADMINISTERING AGENCY either in whole or in part.

21. No alteration or variation of the terms of this AGREEMENT shall be valid unless made in writing and signed by the PARTIES, and no oral understanding or agreement not incorporated herein shall be binding on any of the PARTIES.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT by their duly authorized officer.

STATE 0 F CALIFORNIA
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Ferdinand A. Batatan
f ofl- Chi , Office of Project Implementation
Di sion of Local Assistance

Date 3/8/2022

CITY OF OXNARD

By

Mayor,
City of Oxnard

Date - 3 - (- z, -z..

APPROVED AS TO FORM:

Stephen M. Fischer
City Attorney

EXHIBIT E

PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Kimley-Horn and Associates, Inc.)

FEDERAL & STATE FUNDING REQUIREMENTS - CALTRANS PROJECTS

The provisions of Exhibit E hereof are from the Caltrans Local Assistance Procedures Manual ("LAPM") as Exhibit 10-R thereto dated September 2022. The provisions listed below are from Exhibit 10-R for which there is not a comparable provision otherwise in this Agreement. A complete copy of Exhibit 10-R can be found on the web at https://dot.ca.gov/programs/local-assistance/forms/local-assistance-procedures-manual-forms. Certain provisions of this Exhibit E only apply if the box immediately to the left of the Section is checked. If a box is to the left of any Section of this Agreement and it is not checked, the provision does not apply to this Agreement. If there is no check box provided, the provision applies to this Agreement. In the event of any contradictions or inconsistencies between these provisions and the provisions of the Agreement itself, the terms of this Exhibit shall control. For purposes of this Exhibit, the phrase "CONTRACT ADMINISTRATOR" shall be City's Designated Representative as identified in Section 20 of this Agreement.

ARTICLE I - INTRODUCTION

A. Any third-party person(s) employed by CONSULTANT shall be entirely and exclusively under the direction, supervision, and control of CONSULTANT. CONSULTANT hereby indemnifies and holds CITY harmless from any and all claims that may be made against CITY based upon any contention by any third party that an employer-employee relationship exists by reason of this AGREEMENT.

B. CONSULTANT shall be as fully responsible to the CITY for the negligent acts and omissions of its contractors and subcontractors or subconsultants, and of persons either directly or indirectly employed by them, in the same manner as persons directly employed by CONSULTANT.

C. No alteration or variation of the terms of this AGREEMENT shall be valid, unless made in writing and signed by the parties authorized to bind the parties; and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.

D. The consideration to be paid to CONSULTANT as provided herein, shall be in compensation for all of CONSULTANT's expenses incurred in the performance hereof, including travel and per diem, unless otherwise expressly so provided.

ARTICLE II - CONSULTANT'S REPORTS OR MEETINGS

A. CONSULTANT shall submit progress reports at least once a month. The report should be sufficiently detailed for the CITY's Contract Administrator to determine, if CONSULTANT is performing to expectations, or is on schedule; to provide communication of interim findings, and to sufficiently address any difficulties or special problems encountered, so remedies can be developed.

B. CONSULTANT's Project Manager shall meet with CITY's Contract Administrator, as needed, to discuss progress on the AGREEMENT.

ARTICLE III – STATEMENT OF WORK

☒ A. CONSULTANT Services

SEE THE ATTACHED SCOPE OF SERVICES IN EXHIBIT A OF THIS AGREEMENT. WE NEED TO MAKE SURE THE SOS includes the level of detail explained below.

[Detail based on the services to be furnished should be provided by CONSULTANT. Nature and extent should be verified in the negotiations to make precise statements to eliminate subsequent uncertainties and misunderstandings. Reference to the appropriate standards for design or other standards for work performance stipulated in CONSULTANT AGREEMENT should be included. Describe acceptance criteria, and if the responsible CONSULTANT/engineer shall sign all Plans, Specifications and Estimate (PS&E) and engineering data furnished under the AGREEMENT including registration number. Environmental documents are not considered complete until a Caltrans District Senior Environmental Planner signs the Categorical Exclusion, a Caltrans Deputy District Director signs the Finding of No Significant Impact, or the Caltrans District Director signs the Record of Decision (see LAPM Chapter 6: Environmental Procedures, and the Standard Environmental Reference).]

☐ B. Right of Way

- ☐ Right of Way requirements are to be determined and shown by CONSULTANT;
- ☐ Land surveys and computations with metes and bounds descriptions are to be made; and,
- ☐ Right of Way parcel maps are to be furnished.

☒ C. Surveys

- ☒ CONSULTANT has the responsibility for performing preliminary or construction surveys.

☐ D. Subsurface Investigations

CONSULTANT has responsibility for making subsurface investigations. If borings or other specialized services are to be made by others under the supervision of CONSULTANT, appropriate provisions are to be incorporated, including the following _____. Archaeological testing and data recovery guidance can be found in the Standard Environmental Reference.

E. CITY Obligations

All data applicable to the project and in possession of CITY, another agency, or government agency that are to be made available to CONSULTANT are referred to in the AGREEMENT. Any other assistance or services to be furnished to CONSULTANT are to be stated clearly.

☐ F. Conferences, Site Visits, Inspection of Work

This AGREEMENT provides for conferences as needed, visits to the site, and inspection of the work by representatives of the CITY, State, and/or FHWA. Costs incurred by CONSULTANT for meetings, subsequent to the initial meeting shall be included in the fee.

☐ G. Checking Shop Drawings

This Agreement requires the preparation of construction drawings which must be checked. CONSULTANT agrees that the payment for checking shop drawings by CONSULTANT is included in the fee charged by CONSULTANT under this AGREEMENT.

☐ H. CONSULTANT Services During Construction

The extent, if any of CONSULTANT's services during the course of construction as material testing, construction surveys. etc., are specified in the AGREEMENT together with the method of payment for such services.

☐ I. Documentation and Schedules

AGREEMENTs where appropriate, shall provide that CONSULTANT document the results of the work to the satisfaction of CITY, and if applicable, the State and FHWA. This may include preparation of progress and final reports, plans, specifications and estimates, or

similar evidence of attainment of the AGREEMENT objectives.

ARTICLE IV – PERFORMANCE PERIOD

None.

ARTICLE V – ALLOWABLE COSTS AND PAYMENTS

A. CONSULTANT will be reimbursed for hours worked at the hourly rates specified in the CONSULTANT's approved Cost Proposal. The specified hourly rates shall include direct salary costs, employee benefits, prevailing wages, employer payments, overhead, and fee. These rates are not adjustable for the performance period set forth in this AGREEMENT. CONSULTANT will be reimbursed within thirty (30) days upon receipt by CITY'S Contract Administrator of itemized invoices in duplicate.

B. In addition, CONSULTANT will be reimbursed for incurred (actual) direct costs other than salary costs that are in the approved Cost Proposal and identified in the approved Cost Proposal and in the executed Task Order.

C. Specific projects will be assigned to CONSULTANT through issuance of Task Orders.

D. After a project to be performed under this AGREEMENT is identified by CITY, CITY will prepare a draft Task Order; less the cost estimate. A draft Task Order will identify the scope of services, expected results, project deliverables, period of performance, project schedule and will designate a CITY Project Coordinator. The draft Task Order will be delivered to CONSULTANT for review. CONSULTANT shall return the draft Task Order within ten (10) calendar days along with a Cost Estimate, including a written estimate of the number of hours and hourly rates per staff person, any anticipated reimbursable expenses, overhead, fee if any, and total dollar amount. After agreement has been reached on the negotiable items and total cost; the finalized Task Order shall be signed by both CITY and CONSULTANT.

E. Task Orders may be negotiated for a lump sum (Firm Fixed Price) or for specific rates of compensation, both of which must be based on the labor and other rates set forth in CONSULTANT's approved Cost Proposal. CONSULTANT shall be responsible for any future adjustments to prevailing wage rates including, but not limited to, base hourly rates and employer payments as determined by the Department of Industrial Relations. CONSULTANT is responsible for paying the appropriate rate, including escalations that take place during the term of the AGREEMENT.

F. [Local Agency to include either (a) or (b) below; delete the other one]
(a) Reimbursement for transportation and subsistence costs shall not exceed State rates.
(b) Reimbursement for transportation and subsistence costs shall not exceed the rates as specified in the approved Cost Proposal. CONSULTANT will be responsible for transportation and subsistence costs in excess of State rates.

G. When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval in the form of an AGREEMENT amendment for a revised milestone cost estimate from the Contract Administrator before exceeding such estimate.

H. Progress payments for each Task Order will be made monthly in arrears based on services provided and actual costs incurred.

I. CONSULTANT shall not commence performance of work or services until this AGREEMENT has been approved by CITY and notification to proceed has been issued by CITY'S Contract Administrator. No payment will be made prior to approval or for any work performed prior to approval of this AGREEMENT.

J. A Task Order is of no force or effect until returned to CITY and signed by an authorized representative of CITY. No expenditures are authorized on a project and work shall not commence until a Task Order for that project has been executed by CITY.

K. CONSULTANT will be reimbursed within thirty (30) days upon receipt by CITY'S Contract Administrator of itemized invoices in duplicate. Separate invoices itemizing all costs are required for all work performed under each Task Order. Invoices shall be submitted no later than thirty (30) calendar days after the performance of work for which CONSULTANT is billing, or upon completion of the Task Order. Invoices shall detail the work performed on each milestone, on each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this AGREEMENT number, project title and Task Order number. Credits due CITY that include any equipment purchased under the provisions of Article XI Equipment Purchase, must be reimbursed by CONSULTANT prior to the expiration or termination of this AGREEMENT. Invoices shall be mailed to CITY's Contract Administrator at the following address:
City of Oxnard / Debbie O'Leary, 214 S. C Street, Oxnard, CA 93030 or debbie.oleary@oxnard.org

L. The period of performance for Task Orders shall be in accordance with dates specified in the Task Order. No Task Order will be written which extends beyond the expiration date of this AGREEMENT.

M. The total amount payable by CITY for an individual Task Order shall not exceed the amount agreed to in the Task Order, unless authorized by amendment.

N. If CONSULTANT fails to satisfactorily complete a deliverable according to

the schedule set forth in a Task Order, no payment will be made until the deliverable has been satisfactorily completed.

O. Task Orders may not be used to amend the language (or the terms) of this AGREEMENT nor to exceed the scope of work under this AGREEMENT.

P. The total amount payable by CITY for all Task Orders resulting from this AGREEMENT shall not exceed $ (Amount). It is understood and agreed that there is no guarantee, either expressed or implied that this dollar amount will be authorized under this AGREEMENT through Task Orders.

ARTICLE VI – TERMINATION

See Section 15 of the Agreement.

ARTICLE VII - COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS

A. The CONSULTANT agrees that 48 CFR Part 31, Contract Cost Principles and Procedures, shall be used to determine the allowability of individual terms of cost.

B. The CONSULTANT also agrees to comply with Federal procedures in accordance with 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

C. Any costs for which payment has been made to the CONSULTANT that are determined by subsequent audit to be unallowable under 48 CFR Part 31 or 2 CFR Part 200 are subject to repayment by the CONSULTANT to CITY.

D. When a CONSULTANT or Subconsultant is a Non-Profit Organization or an Institution of Higher Education, the Cost Principles for Title 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards shall apply.

ARTICLE VIII RETENTION OF RECORD/AUDITS

For the purpose of determining compliance with Government Code § 8546.7, the CONSULTANT, Subconsultants, and CITY shall maintain all books, documents, papers, accounting records, Independent CPA Audited Indirect Cost Rate workpapers, and other evidence pertaining to the performance of the AGREEMENT including, but not limited to, the costs of administering the

AGREEMENT. All parties, including the CONSULTANT's Independent CPA, shall make such workpapers and materials available at their respective offices at all reasonable times during the AGREEMENT period and for three (3) years from the date of final payment under the AGREEMENT. CITY, Caltrans Auditor, FHWA, or any duly authorized representative of the Federal government having jurisdiction under Federal laws or regulations (including the basis of Federal funding in whole or in part) shall have access to any books, records, and documents of the CONSULTANT, Subconsultants, and the CONSULTANT's Independent CPA, that are pertinent to the AGREEMENT for audits, examinations, workpaper review, excerpts, and transactions, and copies thereof shall be furnished if requested without limitation.

ARTICLE IX AUDIT REVIEW PROCEDURES

A. Any dispute concerning a question of fact arising under an interim or post audit of this AGREEMENT that is not disposed of by AGREEMENT, shall be reviewed by CITY'S Chief Financial Officer.

B. Not later than thirty (30) calendar days after issuance of the final audit report, CONSULTANT may request a review by CITY'S Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.

C. Neither the pendency of a dispute nor its consideration by CITY will excuse CONSULTANT from full and timely performance, in accordance with the terms of this AGREEMENT.

D. CONSULTANT and subconsultant Agreements, including cost proposals and Indirect Cost Rates (ICR), may be subject to audits or reviews such as, but not limited to, an AGREEMENT audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the AGREEMENT, cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is CONSULTANT's responsibility to ensure federal, CITY, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The AGREEMENT, cost proposal, and ICR shall be adjusted by CONSULTANT and approved by CITY Contract Administrator to conform to the audit or review recommendations. CONSULTANT agrees that individual terms of costs identified in the audit report shall be incorporated into the AGREEMENT by this reference if directed by CITY at its sole discretion. Refusal by CONSULTANT to incorporate audit or review recommendations, or to ensure that the federal, CITY or local governments have access to CPA work papers, will be considered a breach of AGREEMENT terms and cause for termination of the AGREEMENT and disallowance of prior reimbursed costs.

E. CONSULTANT's Cost Proposal may be subject to a CPA ICR Audit Work Paper Review and/or audit by the Independent Office of Audits and Investigations (IOAI). IOAI, at its sole discretion, may review and/or audit and approve the CPA ICR documentation. The Cost Proposal shall be adjusted by the CONSULTANT and approved by the CITY Contract Administrator to conform to the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report. Refusal by the CONSULTANT to incorporate the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report will be considered a breach of the AGREEMENT terms and cause for termination of the AGREEMENT and disallowance of prior reimbursed costs.

1. During IOAI's review of the ICR audit work papers created by the CONSULTANT's independent CPA, IOAI will work with the CPA and/or CONSULTANT toward a resolution of issues that arise during the review. Each party agrees to use its best efforts to resolve any audit disputes in a timely manner. If IOAI identifies significant issues during the review and is unable to issue a cognizant approval letter, CITY will reimburse the CONSULTANT at an accepted ICR until a FAR (Federal Acquisition Regulation) compliant ICR {e.g. 48 CFR Part 31; GAGAS (Generally Accepted Auditing Standards); CAS (Cost Accounting Standards), if applicable; in accordance with procedures and guidelines of the American Association of State Highways and Transportation Officials (AASHTO) Audit Guide; and other applicable procedures and guidelines}is received and approved by IOAI.

Accepted rates will be as follows:

a. If the proposed rate is less than one hundred fifty percent (150%) - the accepted rate reimbursed will be ninety percent (90%) of the proposed rate.

b. If the proposed rate is between one hundred fifty percent (150%) and two hundred percent (200%) - the accepted rate will be eighty-five percent (85%) of the proposed rate.

c. If the proposed rate is greater than two hundred percent (200%) - the accepted rate will be seventy-five percent (75%) of the proposed rate.

2. If IOAI is unable to issue a cognizant letter per paragraph E.1. above, IOAI may require CONSULTANT to submit a revised independent CPA-audited ICR and audit report within three (3) months of the effective date of the management letter. IOAI will then have up to six (6) months to review the CONSULTANT's and/or the independent CPA's revisions.

3. If the CONSULTANT fails to comply with the provisions of this paragraph E, or if IOAI is still unable to issue a cognizant approval letter after the revised independent CPA audited ICR is submitted, overhead cost reimbursement will be limited to the accepted ICR that was established upon initial rejection of the ICR and set forth in paragraph E.1. above for all rendered services. In this event, this accepted ICR will become the actual and final ICR for reimbursement purposes under this AGREEMENT.

4. CONSULTANT may submit to CITY final invoice only when all of the following items have occurred: (1) IOAI accepts or adjusts the original or revised independent CPA audited ICR; (2) all work under this AGREEMENT has been completed to the satisfaction of CITY; and, (3) IOAI has issued its final ICR review letter. The CONSULTANT MUST SUBMIT ITS FINAL INVOICE TO CITY no later than sixty (60) calendar days after occurrence of the last of these items. The accepted ICR will apply to this AGREEMENT and all other agreements executed between CITY and the CONSULTANT, either as a prime or subconsultant, with the same fiscal period ICR.

ARTICLE X – SUBCONTRACTING

A. Any subagreement entered into as a result of this AGREEMENT, shall contain all the provisions stipulated in this entire AGREEMENT to be applicable to Subconsultants unless otherwise noted.

B. CONSULTANT shall pay its Subconsultants within Fifteen (15) calendar days from receipt of each payment made to the CONSULTANT by the CITY.

C. Any substitution of Subconsultants must be approved in writing by the CITY Contract Administrator in advance of assigning work to a substitute Subconsultant.

D. Prompt Progress Payment

CONSULTANT or subconsultant shall pay to any subconsultant, not later than fifteen (15) days after receipt of each progress payment, unless otherwise agreed to in writing, the respective amounts allowed CONSULTANT on account of the work performed by the subconsultants, to the extent of each subconsultant's interest therein. In the event that there is a good faith dispute over all or any portion of the amount due on a progress payment from CONSULTANT or subconsultant to a subconsultant, CONSULTANT or subconsultant may withhold no more than 150 percent of the disputed amount. Any violation of this requirement shall constitute a cause for disciplinary action and shall

subject the licensee to a penalty, payable to the subconsultant, of 2 percent of the amount due per month for every month that payment is not made.

In any action for the collection of funds wrongfully withheld, the prevailing party shall be entitled to his or her attorney's fees and costs. The sanctions authorized under this requirement shall be separate from, and in addition to, all other remedies, either civil, administrative, or criminal. This clause applies to both DBE and non-DBE subconsultants.

E. Prompt Payment of Withheld Funds to Subconsultants

The CITY may hold retainage from CONSULTANT and shall make prompt and regular incremental acceptances of portions, as determined by the CITY, of the contract work, and pay retainage to CONSULTANT based on these acceptances. The CITY shall designate one of the methods below in the contract to ensure prompt and full payment of any retainage kept by CONSULTANT or subconsultant to a subconsultant.

☐ **Method 1**: No retainage will be held by the CITY from progress payments due to CONSULTANT. CONSULTANTS and subconsultants are prohibited from holding retainage from subconsultants. Any delay or postponement of payment may take place only for good cause and with the CITY's prior written approval. Any violation of these provisions shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions, and other remedies specified in Section 3321 of the California Civil Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies, otherwise available to CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by CONSULTANT, deficient subconsultant performance and/or noncompliance by a subconsultant.

This clause applies to both DBE and non-DBE subconsultants.

☐ **Method 2**: No retainage will be held by the CITY from progress payments due to CONSULTANT. Any retainage kept by CONSULTANT or by a subconsultant must be paid in full to the earning subconsultant within 15 days after the subconsultant's work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the CITY's prior written approval. Any violation of these provisions shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions, and remedies specified in Section 3321 of the California Civil Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies, otherwise available to CONSULTANT or subconsultant in the event of a dispute

involving late payment or nonpayment by CONSULTANT, deficient subconsultant performance and/or noncompliance by a subconsultant. This clause applies to both DBE and non-DBE subconsultants.

☐ **Method 3**: The CITY shall hold retainage from CONSULTANT and shall make prompt and regular incremental acceptances of portions, as determined by the CITY of the contract work and pay retainage to CONSULTANT based on these acceptances. CONSULTANT or subconsultant shall return all monies withheld in retention from all subconsultants within 15 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the CITY. Any delay or postponement of payment may take place only for good cause and with the CITY's prior written approval. Any violation of these provisions shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions, and other remedies specified in Section 3321 of the California Civil Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies otherwise available to CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by CONSULTANT; deficient subconsultant performance and/or noncompliance by a subconsultant. This clause applies to both DBE and non-DBE subconsultants.

Any violation of these provisions shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions and other remedies specified therein. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by CONSULTANT, deficient subcontract performance, or noncompliance by a subconsultant.

ARTICLE XI EQUIPMENT PURCHASE AND OTHER CAPITAL EXPENDITURES

A. Prior authorization in writing by CITY's Contract Administrator shall be required before CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding five thousand dollars ($5,000) for supplies, equipment, or CONSULTANT services. CONSULTANT shall provide an evaluation of the necessity or desirability of incurring such costs.

B. For purchase of any item, service, or consulting work not covered in CONSULTANT's approved Cost Proposal and exceeding five thousand dollars ($5,000), with prior authorization by CITY's Contract Administrator, three competitive quotations must be submitted with the request, or the absence of proposal must be adequately justified.

C. Any equipment purchased with funds provided under the terms of this AGREEMENT is subject to the following:

1. CONSULTANT shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of five thousand dollars ($5,000) or more. If the purchased equipment needs replacement and is sold or traded in, CITY shall receive a proper refund or credit at the conclusion of the AGREEMENT, or if the AGREEMENT is terminated, CONSULTANT may either keep the equipment and credit CITY in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established CITY procedures; and credit CITY in an amount equal to the sales price. If CONSULTANT elects to keep the equipment, fair market value shall be determined at CONSULTANT's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by CITY and CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by CITY.

2. Regulation 2 CFR Part 200 requires a credit to Federal funds when participating equipment with a fair market value greater than five thousand dollars ($5,000) is credited to the project.

ARTICLE XII – STATE PREVAILING WAGE RATES

A. No CONSULTANT or Subconsultant may be awarded an AGREEMENT containing public work elements unless registered with the Department of Industrial Relations (DIR) pursuant to Labor Code §1725.5. Registration with DIR must be maintained throughout the entire term of this AGREEMENT, including any subsequent amendments.

B. The CONSULTANT shall comply with all of the applicable provisions of the California Labor Code requiring the payment of prevailing wages. The General Prevailing Wage Rate Determinations applicable to work under this AGREEMENT are available and on file with the Department of Transportation's Regional/District Labor Compliance Officer (https://dot.ca.gov/programs/construction/labor-compliance). These wage rates are made a specific part of this AGREEMENT by reference pursuant to Labor Code §1773.2 and will be applicable to work performed at a construction project site. Prevailing wages will be applicable to all inspection work performed at CITY construction sites, at CITY facilities and at off-site locations that are set up by the construction contractor or one of its subcontractors solely and specifically to serve CITY projects. Prevailing wage requirements do not apply to inspection work

performed at the facilities of vendors and commercial materials suppliers that provide goods and services to the general public.

C. General Prevailing Wage Rate Determinations applicable to this project may also be obtained from the Department of Industrial Relations website at http://www.dir.ca.gov.

D. Payroll Records

1. Each CONSULTANT and Subconsultant shall keep accurate certified payroll records and supporting documents as mandated by Labor Code §1776 and as defined in 8 CCR §16000 showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the CONSULTANT or Subconsultant in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

   a. The information contained in the payroll record is true and correct.

   b. The employer has complied with the requirements of Labor Code §1771, §1811, and §1815 for any work performed by his or her employees on the public works project.

2. The payroll records enumerated under paragraph (1) above shall be certified as correct by the CONSULTANT under penalty of perjury. The payroll records and all supporting documents shall be made available for inspection and copying by CITY representatives at all reasonable hours at the principal office of the CONSULTANT. The CONSULTANT shall provide copies of certified payrolls or permit inspection of its records as follows:

   a. A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or the employee's authorized representative on request.

   b. A certified copy of all payroll records enumerated in paragraph (1) above, shall be made available for inspection or furnished upon request to a representative of CITY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations. Certified payrolls submitted to CITY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards shall not be altered or obliterated by the CONSULTANT.

   c. The public shall not be given access to certified payroll records by the CONSULTANT. The CONSULTANT is required to forward any requests for certified payrolls to the LOCAL AGENCY Contract Administrator by both email and regular mail on the business day following receipt of the request.

3. Each CONSULTANT shall submit a certified copy of the records enumerated in paragraph (1) above, to the entity that requested the records within ten (10) calendar days after receipt of a written request.

4. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by CITY shall be marked or obliterated in such a manner as to prevent disclosure of each individual's name, address, and social security number. The name and address of the CONSULTANT or Subconsultant performing the work shall not be marked or obliterated.

5. The CONSULTANT shall inform CITY of the location of the records enumerated under paragraph (1) above, including the street address, city and county, and shall, within five (5) working days, provide a notice of a change of location and address.

6. The CONSULTANT or Subconsultant shall have ten (10) calendar days in which to comply subsequent to receipt of written notice requesting the records enumerated in paragraph (1) above. In the event the CONSULTANT or Subconsultant fails to comply within the ten (10) day period, he or she shall, as a penalty to CITY, forfeit one hundred dollars ($100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Such penalties shall be withheld by CITY from payments then due. CONSULTANT is not subject to a penalty assessment pursuant to this section due to the failure of a Subconsultant to comply with this section.

E. When prevailing wage rates apply, the CONSULTANT is responsible for verifying compliance with certified payroll requirements. Invoice payment will not be made until the invoice is approved by the CITY Contract Administrator.

F. Penalty

1. The CONSULTANT and any of its Subconsultants shall comply with Labor Code §1774 and §1775. Pursuant to Labor Code §1775, the CONSULTANT and any Subconsultant shall forfeit to the CITY a penalty of not more than two hundred dollars ($200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of DIR for the work or craft in which the worker is employed for any public work done under the AGREEMENT by the CONSULTANT or by its Subconsultant in violation of the requirements of the Labor Code and in particular, Labor Code §§1770 to 1780, inclusive.

2. The amount of this forfeiture shall be determined by the Labor Commissioner and shall be based on consideration of mistake, inadvertence, or neglect of the CONSULTANT or Subconsultant in failing to pay the correct rate of prevailing wages, or the previous record of the CONSULTANT or Subconsultant in meeting their respective prevailing wage obligations, or the willful failure by the

CONSULTANT or Subconsultant to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rates of prevailing wages is not excusable if the CONSULTANT or Subconsultant had knowledge of the obligations under the Labor Code. The CONSULTANT is responsible for paying the appropriate rate, including any escalations that take place during the term of the AGREEMENT.

3. In addition to the penalty and pursuant to Labor Code §1775, the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the CONSULTANT or Subconsultant.

4. If a worker employed by a Subconsultant on a public works project is not paid the general prevailing per diem wages by the Subconsultant, the prime CONSULTANT of the project is not liable for the penalties described above unless the prime CONSULTANT had knowledge of that failure of the Subconsultant to pay the specified prevailing rate of wages to those workers or unless the prime CONSULTANT fails to comply with all of the following requirements:

   a. The AGREEMENT executed between the CONSULTANT and the Subconsultant for the performance of work on public works projects shall include a copy of the requirements in Labor Code §§ 1771, 1775, 1776, 1777.5, 1813, and 1815.

   b. The CONSULTANT shall monitor the payment of the specified general prevailing rate of per diem wages by the Subconsultant to the employees by periodic review of the certified payroll records of the Subconsultant.

   c. Upon becoming aware of the Subconsultant's failure to pay the specified prevailing rate of wages to the Subconsultant's workers, the CONSULTANT shall diligently take corrective action to halt or rectify the failure, including but not limited to, retaining sufficient funds due the Subconsultant for work performed on the public works project.

   d. Prior to making final payment to the Subconsultant for work performed on the public works project, the CONSULTANT shall obtain an affidavit signed under penalty of perjury from the Subconsultant that the Subconsultant had paid the specified general prevailing rate of per diem wages to the Subconsultant's employees on the public works project and any amounts due pursuant to Labor Code §1813.

5. Pursuant to Labor Code §1775, CITY shall notify the CONSULTANT on a public works project within fifteen (15) calendar days of receipt of a complaint that a Subconsultant has failed to pay workers the general prevailing rate of per diem wages.

6. If CITY determines that employees of a Subconsultant were not paid the general prevailing rate of per diem wages and if CITY did not retain sufficient money under the AGREEMENT to pay those employees the balance of wages owed under the general prevailing rate of per diem wages, the CONSULTANT shall withhold an amount of moneys due the Subconsultant sufficient to pay those employees the general prevailing rate of per diem wages if requested by CITY.

G. Hours of Labor

Eight (8) hours labor constitutes a legal day's work. The CONSULTANT shall forfeit, as a penalty to the CITY, twenty-five dollars ($25) for each worker employed in the execution of the AGREEMENT by the CONSULTANT or any of its Subconsultants for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of the Labor Code, and in particular §§1810 to 1815 thereof, inclusive, except that work performed by employees in excess of eight (8) hours per day, and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day and forty (40) hours in any week, at not less than one and one-half (1.5) times the basic rate of pay, as provided in §1815.

H. Employment of Apprentices

1. Where either the prime AGREEMENT or the subagreement exceeds thirty thousand dollars ($30,000), the CONSULTANT and any subconsultants under him or her shall comply with all applicable requirements of Labor Code §§ 1777.5, 1777.6 and 1777.7 in the employment of apprentices.

2. CONSULTANTs and subconsultants are required to comply with all Labor Code requirements regarding the employment of apprentices, including mandatory ratios of journey level to apprentice workers. Prior to commencement of work, CONSULTANT and subconsultants are advised to contact the DIR Division of Apprenticeship Standards website at https://www.dir.ca.gov/das/, for additional information regarding the employment of apprentices and for the specific journey-to- apprentice ratios for the AGREEMENT work. The CONSULTANT is responsible for all subconsultants' compliance with these requirements. Penalties are specified in Labor Code §1777.7.

ARTICLE XIII – CONFLICT OF INTEREST

A. During the term of this AGREEMENT, the CONSULTANT shall disclose any financial, business, or other relationship with CITY that may have an impact upon the outcome of this AGREEMENT or any ensuing CITY construction project. The CONSULTANT shall also list current clients who may have a financial interest in the outcome of this AGREEMENT or any ensuing CITY construction project which will follow.

B. CONSULTANT certifies that it has disclosed to CITY any actual, apparent, or potential conflicts of interest that may exist relative to the services to be provided pursuant to this AGREEMENT. CONSULTANT agrees to advise CITY of any actual, apparent or potential conflicts of interest that may develop subsequent to the date of execution of this AGREEMENT. CONSULTANT further agrees to complete any statements of economic interest if required by either CITY ordinance or State law.

C. The CONSULTANT hereby certifies that it does not now have nor shall it acquire any financial or business interest that would conflict with the performance of services under this AGREEMENT.

D. The CONSULTANT hereby certifies that the CONSULTANT or subconsultant and any firm affiliated with the CONSULTANT or subconsultant that bids on any construction contract or on any Agreement to provide construction inspection for any construction project resulting from this AGREEMENT, has established necessary controls to ensure a conflict of interest does not exist. An affiliated firm is one, which is subject to the control of the same persons, through joint ownership or otherwise.

ARTICLE XIV – REBATES, KICKBACK, OR OTHER UNLAWFUL CONSIDERATION

The CONSULTANT warrants that this AGREEMENT was not obtained or secured through rebates, kickbacks or other unlawful consideration either promised or paid to any CITY employee. For breach or violation of this warranty, CITY shall have the right, in its discretion, to terminate this AGREEMENT without liability, to pay only for the value of the work actually performed, or to deduct from this AGREEMENT price or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

ARTICLE XV – PROHIBITION OF EXPENDING CITY, STATE, OR FEDERAL FUNDS FOR LOBBYING

A. The CONSULTANT certifies, to the best of his or her knowledge and belief, that:

1. No State, Federal, or CITY appropriated funds have been paid or will be paid, by or on behalf of the CONSULTANT, to any person for influencing or attempting to influence an officer or employee of any local, State, or Federal agency, a Member of the State Legislature or United States Congress, an officer or employee of the Legislature or Congress, or any employee of a Member of the Legislature or Congress in connection with the awarding or making of this AGREEMENT, or with the extension, continuation, renewal, amendment, or modification of this AGREEMENT.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this AGREEMENT, the CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than ten thousand dollars ($10,000) and not more than one hundred thousand dollars ($100,000) for each such failure.

C. The CONSULTANT also agrees by signing this document that he or she shall require that the language of this certification be included in all lower tier subagreements, which exceed one hundred thousand dollars ($100,000), and that all such subrecipients shall certify and disclose accordingly.

ARTICLE XVI – NON-DISCRIMINATION CLAUSE AND STATEMENT OF COMPLIANCE

A. The CONSULTANT's signature affixed herein and dated shall constitute a certification under penalty of perjury under the laws of the State of California that the CONSULTANT has, unless exempt, complied with the nondiscrimination program requirements of Gov. Code §12990 and 2 CCR § 8103.

B. During the performance of this AGREEMENT, CONSULTANT and its subconsultants shall not deny the AGREEMENT's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. CONSULTANT and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.

C. CONSULTANT and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 et seq.), the applicable regulations promulgated there under (2 CCR §11000 et seq.), the provisions of Gov. Code §§11135-11139.5, and the regulations or standards adopted by CITY

to implement such article. The applicable regulations of the Fair Employment and Housing Commission implementing Gov. Code §12990 (a-f), set forth 2 CCR §§8100-8504, are incorporated into this AGREEMENT by reference and made a part hereof as if set forth in full.

D. CONSULTANT shall permit access by representatives of the Department of Fair Employment and Housing and the CITY upon reasonable notice at any time during the normal business hours, but in no case less than twenty-four (24) hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or CITY shall require to ascertain compliance with this clause.

E. CONSULTANT and its subconsultant*s* shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

F. CONSULTANT shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this AGREEMENT.

G. The CONSULTANT, with regard to the work performed under this AGREEMENT, shall act in accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d *et seq*.). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the United States shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.

H. The CONSULTANT shall comply with regulations relative to non-discrimination in federally- assisted programs of the U.S. Department of Transportation (49 CFR Part 21 - Effectuation of Title VI of the Civil Rights Act of 1964). Specifically, the CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR §21.5, including employment practices and the selection and retention of Subconsultants.

I. CONSULTANT, subrecipient or subconsultant will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR 26 on the basis of race, color, sex, or national origin. In administering the CITY components of the DBE Program Plan, CONSULTANT, subrecipient or subconsultant will not, directly, or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program Plan with respect to individuals of a particular race, color, sex, or national origin.

ARTICLE XVII – DEBARMENT AND SUSPENSION CERTIFICATION

A. The CONSULTANT's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California, that the CONSULTANT or any person associated therewith in the capacity of owner, partner, director, officer or manager:

   1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
   2. Has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years;
   3. Does not have a proposed debarment pending; and
   4. Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

B. Any exceptions to this certification must be disclosed to CITY. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining responsibility. Disclosures must indicate the party to whom the exceptions apply, the initiating agency, and the dates of agency action.

C. Exceptions to the Federal Government excluded parties (https://sam.gov/content/home) maintained by the U.S. General Services Administration are to be determined by FHWA.

☐ ARTICLE XVIII – DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION

A. CONSULTANT, subrecipient (CITY), or subconsultant shall take necessary and reasonable steps to ensure that DBEs have opportunities to participate in the contract (49 CFR 26). To ensure equal participation of DBEs provided in 49 CFR 26.5, The CITY shows a contract goal for DBEs. CONSULTANT shall make work available to DBEs and select work parts consistent with available DBE subconsultants and suppliers.

   CONSULTANT shall meet the DBE goal shown elsewhere in these special provisions or demonstrate that they made adequate good faith efforts to meet this goal. It is CONSULTANT's responsibility to verify that the DBE firm is certified as DBE at date of proposal opening and document the record by printing out the California Unified Certification Program (CUCP) data for each DBE firm. A list of DBEs certified by the CUCP can be found here.

   All DBE participation will count toward the California Department of

Transportation's federally mandated statewide overall DBE goal. Credit for materials or supplies CONSULTANT purchases from DBEs counts towards the goal in the following manner:

- 100 percent counts if the materials or supplies are obtained from a DBE manufacturer.
- 60 percent counts if the materials or supplies are purchased from a DBE regular dealer.
- Only fees, commissions, and charges for assistance in the procurement and delivery of materials or supplies count if obtained from a DBE that is neither a manufacturer nor regular dealer. 49CFR26.55 defines "manufacturer" and "regular dealer."

This AGREEMENT is subject to 49 CFR Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs". Consultants who enter into a federally-funded agreement will assist the CITY in a good faith effort to achieve California's statewide overall DBE goal.

B. The goal for DBE participation for this AGREEMENT is 0%. Participation by DBE CONSULTANT or subconsultants shall be in accordance with information contained in Exhibit 10- O2: Consultant Contract DBE Commitment attached hereto and incorporated as part of the AGREEMENT. If a DBE subconsultant is unable to perform, CONSULTANT must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met.

C. CONSULTANT can meet the DBE participation goal by either documenting commitments to DBEs to meet the AGREEMENT goal, or by documenting adequate good faith efforts to meet the AGREEMENT goal. An adequate good faith effort means that the CONSULTANT must show that it took all necessary and reasonable steps to achieve a DBE goal that, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to meet the DBE goal. If CONSULTANT has not met the DBE goal, complete and submit Exhibit 15-H: DBE Information – Good Faith Efforts to document efforts to meet the goal. Refer to 49 CFR Part 26 for guidance regarding evaluation of good faith efforts to meet the DBE goal.

D. Contract Assurance

Under 49 CFR 26.13(b):

CONSULTANT, subrecipient or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. CONSULTANT shall carry out applicable requirements of 49 CFR 26 in the award

and administration of federal-aid contracts.

Failure by the CONSULTANT to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

(1) Withholding monthly progress payments;

(2) Assessing sanctions;

(3) Liquidated damages; and/or,

(4) Disqualifying CONSULTANT from future proposing as non-responsible

E. Termination and Substitution of DBE Subconsultants

CONSULTANT shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless CONSULTANT or DBE subconsultant obtains the CITY's written consent. CONSULTANT shall not terminate or substitute a listed DBE for convenience and perform the work with their own forces or obtain materials from other sources without authorization from the CITY. Unless the CITY's consent is provided, the CONSULTANT shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE on the Exhibit 10-02 Consultant Contract DBE Commitment form, included in the Bid.

The CITY authorizes a request to use other forces or sources of materials if CONSULTANT shows any of the following justifications:

1. Listed DBE fails or refuses to execute a written contract based on plans and specifications for the project.
2. The CITY stipulated that a bond is a condition of executing the subcontract and the listed DBE fails to meet the CITY's bond requirements.
3. Work requires a consultant's license and listed DBE does not have a valid license under Contractors License Law.
4. Listed DBE fails or refuses to perform the work or furnish the listed materials (failing or refusing to perform is not an allowable reason to remove a DBE if the failure or refusal is a result of bad faith or discrimination).
5. Listed DBE's work is unsatisfactory and not in compliance with the contract.
6. Listed DBE is ineligible to work on the project because of suspension or debarment.

7. Listed DBE becomes bankrupt or insolvent.
8. Listed DBE voluntarily withdraws with written notice from the Contract
9. Listed DBE is ineligible to receive credit for the type of work required.
10. Listed DBE owner dies or becomes disabled resulting in the inability to perform the work on the Contract.
11. The CITY determines other documented good cause.

CONSULTANT shall notify the original DBE of the intent to use other forces or material sources and provide the reasons and provide the DBE with 5 days to respond to the notice and advise CONSULTANT and the CITY of the reasons why the use of other forces or sources of materials should not occur.

CONSULTANT's request to use other forces or material sources must include:

1. One or more of the reasons listed in the preceding paragraph.
2. Notices from CONSULTANT to the DBE regarding the request.
3. Notices from the DBEs to CONSULTANT regarding the request.

If a listed DBE is terminated or substituted, CONSULTANT must make good faith efforts to find another DBE to substitute for the original DBE. The substitute DBE must perform at least the same amount of work as the original DBE under the contract to the extent needed to meet or exceed the DBE goal.

F. Commitment and Utilization

The CITY's DBE program must include a monitoring and enforcement mechanism to ensure that DBE commitments reconcile to DBE utilization.

The CITY shall request CONSULTANT to:

1. Notify the CITY's contract administrator or designated representative of any changes to its anticipated DBE participation
2. Provide this notification before starting the affected work
3. Maintain records including:
   - Name and business address of each 1st-tier subconsultant
   - Name and business address of each DBE subconsultant, DBE vendor, and DBE trucking company, regardless of tier
   - Date of payment and total amount paid to each business (see Exhibit 9-F *Monthly Disadvantaged Business Enterprise Payment*)

If CONSULTANT is a DBE CONSULTANT, they shall include the date of work performed by their own forces and the corresponding value of the work.

If a DBE is decertified before completing its work, the DBE must notify CONSULTANT in writing of the decertification date. If a business becomes a certified DBE before completing its work, the business must notify CONSULTANT in writing of the certification date. CONSULTANT shall submit the notifications to the CITY. On work completion, CONSULTANT shall complete a Disadvantaged Business Enterprises (DBE) Certification Status Change, Exhibit 17-O, form and submit the form to the CITY within 30 days of contract acceptance.

Upon work completion, CONSULTANT shall complete Exhibit 17-F Final Report – Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors and submit it to the CITY within 90 days of contract acceptance. The CITY will withhold $10,000 until the form is submitted. The CITY will release the withhold upon submission of the completed form.

In the CITY's reports of DBE participation to Caltrans, the CITY must display both commitments and attainments.

G. A DBE is only eligible to be counted toward the AGREEMENT goal if it performs a commercially useful function (CUF) on the AGREEMENT. CUF must be evaluated on an agreement by agreement basis. A DBE performs a Commercially Useful Function (CUF) when it is responsible for execution of the work of the AGREEMENT and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible, with respect to materials and supplies used on the AGREEMENT, for negotiating price, determining quality and quantity, ordering the material and installing (where applicable), and paying for the material itself. To determine whether a DBE is performing a CUF, evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the AGREEMENT is commensurate with the work it is actually performing, and other relevant factors.

H. A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, AGREEMENT, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.

I. If a DBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its AGREEMENT with its own work force, or the DBE subcontracts a greater portion of the work of the AGREEMENT than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a CUF.

J. CONSULTANT shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each

DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE CONSULTANT's shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.

K. If a DBE subconsultant is decertified during the life of the AGREEMENT, the decertified subconsultant shall notify CONSULTANT in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the AGREEMENT, the subconsultant shall notify CONSULTANT in writing with the date of certification. Any changes should be reported to CITY's Contract Administrator within thirty (30) calendar days.

L. After submitting an invoice for reimbursement that includes a payment to a DBE, but no later than the 10th of the following month, the prime contractor/consultant shall complete and email the Exhibit 9- F: Disadvantaged Business Enterprise Running Tally of Payments to business.support.unit@dot.ca.gov with a copy to the Agency.

M. Any subcontract entered into as a result of this AGREEMENT shall contain all of the provisions of this section.

ARTICLE XIX – INSURANCE

See Section 26 of the Agreement.

ARTICLE XX – FUNDING REQUIREMENTS

A. It is mutually understood between the parties that this AGREEMENT may have been written before ascertaining the availability of funds or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if the AGREEMENT were executed after that determination was made.

B. This AGREEMENT is valid and enforceable only if sufficient funds are made available to CITY for the purpose of this AGREEMENT. In addition, this AGREEMENT is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress, State Legislature, or CITY governing board that may affect the provisions, terms, or funding of this AGREEMENT in any

manner.

C. It is mutually agreed that if sufficient funds are not appropriated, this AGREEMENT may be amended to reflect any reduction in funds.

D. CITY has the option to terminate the AGREEMENT pursuant to Article VI Termination, or by mutual agreement to amend the AGREEMENT to reflect any reduction of funds.

ARTICLE XXI – CHANGE IN TERMS

See Section 14 of the Agreement.

ARTICLE XXII – CONTINGENCY FEE

CONSULTANT warrants, by execution of this AGREEMENT that no person or selling agency has been employed, or retained, to solicit or secure this AGREEMENT upon an agreement or understanding, for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees, or bona fide established commercial or selling agencies maintained by CONSULTANT for the purpose of securing business. For breach or violation of this warranty, CITY has the right to annul this AGREEMENT without liability; pay only for the value of the work actually performed, or in its discretion to deduct from the AGREEMENT price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

ARTICLE XXIII - DISPUTES

See Sections 32 and 33 of the Agreement.

ARTICLE XXIV - INSPECTION OF WORK

CONSULTANT and any subconsultant shall permit CITY, the State, and the FHWA if federal participating funds are used in this AGREEMENT; to review and inspect the project activities and files at all reasonable times during the performance period of this AGREEMENT.

ARTICLE XXV – SAFETY

A. CONSULTANT shall comply with OSHA regulations applicable to CONSULTANT regarding necessary safety equipment or procedures. CONSULTANT shall comply with safety instructions issued by CITY Safety Officer and other CITY representatives. CONSULTANT personnel shall wear hard hats and safety vests at all times while working on the construction project

site.

B. Pursuant to the authority contained in Vehicle Code §591, CITY has determined that such areas are within the limits of the project and are open to public traffic. CONSULTANT shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. CONSULTANT shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.

C. CONSULTANT must have a Division of Occupational Safety and Health (CAL-OSHA) permit(s), as outlined in Labor Code §6500 and §6705, prior to the initiation of any practices, work, method, operation, or process related to the construction or excavation of trenches which are five (5) feet or deeper.

ARTICLE XXVI - OWNERSHIP OF DATA

A. It is mutually agreed that all materials prepared by CONSULTANT under this AGREEMENT shall become the property of City, and CONSULTANT shall have no property right therein whatsoever. Immediately upon termination, City shall be entitled to, and CONSULTANT shall deliver to City, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not, and other such materials as may have been prepared or accumulated to date by CONSULTANT in performing this AGREEMENT which is not CONSULTANT's privileged information, as defined by law, or CONSULTANT's personnel information, along with all other property belonging exclusively to City which is in CONSULTANT's possession. Publication of the information derived from work performed or data obtained in connection with services rendered under this AGREEMENT must be approved in writing by City.

B. Additionally, it is agreed that the Parties intend this to be an AGREEMENT for services and each considers the products and results of the services to be rendered by CONSULTANT hereunder to be work made for hire. CONSULTANT acknowledges and agrees that the work (and all rights therein, including, without limitation, copyright) belongs to and shall be the sole and exclusive property of City without restriction or limitation upon its use or dissemination by City.

C. Nothing herein shall constitute or be construed to be any representation by CONSULTANT that the work product is suitable in any way for any other project except the one detailed in this Contract. Any reuse by City for another project or project location shall be at City's sole risk.

D. Applicable patent rights provisions regarding rights to inventions shall be included in the contracts as appropriate (48 CFR 27 Subpart 27.3 - Patent Rights under Government Contracts for federal aid contracts).

E. CITY may permit copyrighting reports or other agreement products. If copyrights are permitted; the AGREEMENT shall provide that the FHWA shall have the royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use; and to authorize others to use, the work for government purposes.

ARTICLE XXVII – CLAIMS FILED BY CITY'S CONSTRUCTION CONTRACTOR

Not Applicable to this Professional Service Agreement

ARTICLE XXVIII – CONFIDENTIALITY OF DATA

A. All financial, statistical, personal, technical, or other data and information relative to LOCAL AGENCY's operations, which are designated confidential by CITY and made available to CONSULTANT in order to carry out this AGREEMENT, shall be protected by CONSULTANT from unauthorized use and disclosure.

B. Permission to disclose information on one occasion, or public hearing held by CITY relating to the AGREEMENT, shall not authorize CONSULTANT to further disclose such information, or disseminate the same on any other occasion.

C. CONSULTANT shall not comment publicly to the press or any other media regarding the AGREEMENT or CITY's actions on the same, except to CITY's staff, CONSULTANT's own personnel involved in the performance of this AGREEMENT, at public hearings, or in response to questions from a Legislative committee.

D. CONSULTANT shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this AGREEMENT without prior review of the contents thereof by CITY, and receipt of CITY'S written permission.

E. Any subcontract entered into as a result of this contract shall contain all of the provisions of this Article.

F. All information related to the construction estimate is confidential, and shall not be disclosed by CONSULTANT to any entity, other than CITY, Caltrans, and/or FHWA. All of the materials prepared or assembled by CONSULTANT pursuant to performance of this Contract are confidential and CONSULTANT agrees that they shall not be made available to any individual or organization without the prior written approval of City or except by court order. If CONSULTANT or any of its officers, employees, or subcontractors does voluntarily provide information in violation of this Contract, City has the right to reimbursement and indemnity from CONSULTANT for any damages caused by CONSULTANT releasing the information, including, but not limited to, City's attorney's fees and disbursements, including without limitation experts' fees and disbursements.

G. This Article's requirements are in addition to those stated in Section 19.5 and 19.6 of the Agreement. In the event of a conflict this Article controls.

ARTICLE XXIX – NATIONAL LABOR RELATIONS BOARD CERTIFICATION

In accordance with Public Contract Code §10296, CONSULTANT hereby states under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against CONSULTANT within the immediately preceding two-year period, because of CONSULTANT's failure to comply with an order of a federal court that orders CONSULTANT to comply with an order of the National Labor Relations Board.

ARTICLE XXX - EVALUATION OF CONSULTANT

CONSULTANT's performance will be evaluated by CITY. A copy of the evaluation will be sent to CONSULTANT for comments. The evaluation together with the comments shall be retained as part of the AGREEMENT record.

ARTICLE XXXI - PROMPT PAYMENT FROM THE CITY TO CONSULTANT

The CITY shall make any progress payment within 30 days after receipt of an undisputed and properly submitted payment request from CONSULTANT on a professional service contract. If the CITY fails to pay promptly, the CITY shall pay interest to the contractor, which accrues at the rate of 10 percent per annum on the principal amount of a money judgment remaining unsatisfied. Upon receipt of a payment request, the CITY shall act in accordance with both of the following:

1. Each payment request shall be reviewed by the CITY as soon as practicable after receipt for the purpose of determining that the payment request is a proper payment request.
2. Any payment request determined not to be a proper payment request suitable for payment shall be returned to CONSULTANT as soon as practicable, but not later than seven (7) days, after receipt. A request returned pursuant to this paragraph shall be accompanied by a document setting forth in writing the reasons why the payment request is not proper.

EXHIBIT F

PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Kimley-Horn and Associates, 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 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 $19.51 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 $19.51 per hour for each hour that such employee provides Services under this Agreement. This hourly rate shall be adjusted on July 1, 2025, and each July 1 thereafter, according to the percentage change in the Consumer Price Index, all items, prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers (CPI-U), index base 1982-84=100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, Consultant shall provide to such employee no less than 96 hours of paid leave per calendar year.

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

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

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

EXHIBIT G

PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Kimley-Horn and Associates, Inc.)

PREVAILING WAGE

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

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

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

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

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

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

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

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

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

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

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

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

13. To the maximum extent, Consultant shall hold harmless, defend (with counsel approved by the City Attorney) and indemnify City, its legislative bodies, and its officials, officers, employees and agents from any demand or claim for damages, compensation, fines, penalties or other amounts arising out of or incidental to any acts or omissions listed above by any person or entity (including Consultant, its subcontractors, and each of their officials, officers, employees and agents) in connection with any work undertaken or in connection

with the Agreement, including without limitation the payment of all attorneys' fees and other related costs. All duties of Consultant under this Section shall survive Agreement termination.

EXHIBIT H

PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Kimley-Horn and Associates, Inc.)

IRAN CONTRACTING CERTIFICATION

IRAN CONTRACTING ACT CERTIFICATION
(TO BE EXECUTED AND SUBMITTED WITH THE AGREEMENT)
Public Contract Code Sections 2202-2208

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

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

OPTION No.1 – CERTIFICATION
I, the official named below, certify I am duly authorized to execute this certification on behalf of the company/entity identified below, and the company/entity identified below is not on the current list of persons engaged in investment activities in Iran created by DGS and is not a financial institution extending twenty million dollars ($20,000,000) or more in credit to another person or entity, for 45 days or more, if that other person or company/entity will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS in accordance with subdivision
(b) of Public Contract Code 2203.

Company Name/Financial Institution (printed): _____ Federal ID Number (or n/a): _____

By (Authorized Signature): _____

Printed Name & Title of Person Signing: _____ Date Executed _____

Executed in the County of_____ in the State of _____

OPTION No.2 – EXEMPTION
Pursuant to Public Contract Code sections 2203(c) and (d), a public entity may permit a vendor/financial institution engaged in investment activities in Iran, on a case-by-case basis, to be eligible for, or to bid on, submit a proposal for, or enters into or renews, a contract for goods and services. If you have obtained an

exemption from the certification requirement under the Iran Contracting Act, please fill out the information below and attach documentation demonstrating the exemption approval.

Company Name/Financial Institution (printed): _____

Federal ID Number (or n/a): _____

By (Authorized Signature): _____

Printed Name & Title of Person Signing: _____

Date Executed _____

Executed in the County of _____ in the State of _____

PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF OXNARD AND FEHR & PEERS

By This Professional Services Agreement ("Agreement"), the City of Oxnard ("City") agrees to engage the Services of Fehr & Peers ("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."

RECITALS

WHEREAS, this Agreement is entered into as a result of the Restricted Grant Agreement ("RGA") entered into between the City and the Department of Transportation (Caltrans) attached to this Agreement as Exhibit D and incorporated herein by this reference for Transportation Planning and Grant Writing; and

WHEREAS, per item 24c. in the RGA, Consultant shall adhere to any and all sections, items, attachments, and amendments of the RGA in additional to the terms of this Agreement and Exhibit E (grant funding requirements); and

WHEREAS, in the event of any conflict between the terms of this Agreement and Exhibits D and E and any attachments, or amendments thereto, the terms of the RGA (exhibit D) and grant funding requirements (exhibit E) shall control; and

WHEREAS, Consultant represents that it is fully qualified and licensed to perform the consulting and/or professional Services required for performance under this Agreement by virtue of its experience and the training, education, and expertise of its principals and its employees; and

WHEREAS, the specific services required under this Agreement will be requested on an as needed basis not all requested services under this agreement will be grant funded, therefore the provisions of Exhibits D & E shall apply to services when the task order indicates the requested service(s) will be grant funded; and

WHEREAS, in light of the facts set forth above, the City desires to retain Consultant to provide On-Call Transportation Planning and Grant Writing on an independent contractor basis in accordance with the terms and provisions set forth in this Agreement.

NOW THEREFORE, IN CONSIDERATION OF THE COVENANTS, CONDITIONS, AND PROMISES CONTAINED HEREIN AND FOR SUCH OTHER GOOD AND VALUABLE CONSIDERATION, RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED, THE PARTIES HERETO AGREE AS FOLLOWS:

1. The Recitals set forth above are true and correct and together with any definitions set forth therein are hereby incorporated into this Agreement by this reference, as though set forth fully herein.

2. **SUMMARY DESCRIPTION OF SERVICES.**

   This Agreement is to provide the City with transportation planning and grant writing. Certain services performed will be grant funded and Consultant shall comply with the terms and conditions stated in the RGA identified in Exhibits D and E.

3. **PARTIES.**

   City of Oxnard, a general law and municipal corporation of the State of California, located at 300 West Third Street, Oxnard California 93030.

   Fehr & Peers, a corporation of the State of California, located at 100 Pringle Avenue, Suite 600, Walnut Creek, California 94596

4. **TERM OF AGREEMENT:** From: December 4, 2024 To: December 3, 2027

   A. Time is of the essence in this Agreement
   B. The City shall have the option to exercise (2) consecutive (1) one-year term extensions, in accordance with the scope of work and terms and conditions of this Agreement. Any price negotiations, if allowed, shall be negotiated at the time of contract extension.
   C. This Agreement shall not exceed a total of five (5) years (including the initial term and any options to extend). The City in its sole discretion may exercise the option terms upon sixty (60) days written notice to the Consultant (or any other time if the parties so agree) in accordance with Section 12 of this Agreement. The option term shall be commenced by an amendment to this agreement.
   D. All Services required of Consultant under this Agreement shall be completed on or before the end of the term of the Agreement.

5. **AGREEMENT AMOUNT NOT TO EXCEED:** $1,500,000.

6. **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-A
Exhibit D: Restricted Grant Agreement
Exhibit E Federal & State Funding Requirements – Caltrans Projects
Exhibit F: Living Wage Policy
Exhibit G: Iran Contracting Certification

7. **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 Debbie O'Leary	Name Chelsea Richer
Title Transportation Planner	Title Project Manager
Phone 805-200-5283	Phone 213-261-3082
Email debbie.oleary@oxnard.org	Email c.richer@fehrandpeers.com
Address 214 South C Street	Address 600 Wilshire Blvd., Suite 1050
Oxnard, California 93030	Los Angeles, California 90017

8. **CONTRACTUAL PREREQUSITIES.** 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.

   A. Consultant is advised that any recommendation for Agreement award is not binding on City until the Agreement is fully executed and approved by City.
   B. 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.
   C. All proof of a City tax certificate, insurance, and W-9 forms is required prior to execution of this Agreement.
   D. 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.

9. **CONSULTANT'S SERVICES.**

   A. 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 13 of this Agreement.

B. 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.

10. **COMPENSATION.** City shall pay Consultant for the Services performed pursuant to the terms of this Agreement and the "Schedule of Compensation," attached to and incorporated into this Agreement as "Exhibit B." City shall pay Consultant an amount not to exceed the amount is listed in Section 5 of this Agreement. Once this Agreement is executed, the Schedule of Compensation may only be modified by written Amendment pursuant to Section 13 of this Agreement, and may be subject to approval by the City Council.

11. **PAYMENT and 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 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.

A. 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: **pwengineeringap@oxnard.org**.

B. 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.

C. 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.

D. **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.

12. **OPTION TO EXTEND AGREEMENT.** When in the City's best interest, this Agreement may only be extended, if the City, in its discretion, exercises an option term in accordance with Section 4 subparagraphs (B) and (C) of this 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 4(B), then this Agreement shall not be extended.**

13. **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. The City may request that the Consultant perform Extra Services. As used herein, "Extra Services" means any services, which are determined by the City to be necessary for the proper completion of the project, but which the Parties did not reasonably anticipate would be necessary at the execution of this Agreement. A written amendment signed by both Parties shall be required to authorize performance of and payment for Extra Services.

14. **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 22 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.

15. **CALTRANS GRANT FUNDING REQUIREMENTS .** The Request for Proposal for this Agreement included a Section that placed Consultant on Notice that the Agreement and associated Scope of Work is being funded in whole or in part grant

funds in accordance with a Restricted Grant Agreement between the City of Oxnard and the California Department of Transportation. A Federal & State Funding Requirements Addendum for CalTrans Projects is attached in its entirety as Exhibit E and incorporated herein by this reference. Consultant herein agrees to and shall comply with all requirements and provisions of Exhibit E. To the extent there is a conflict in the terms of this Agreement and the terms in Exhibit E, the terms in Exhibit E shall control.

16. **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, subconsultants, 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 T 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, subconsultants, or employees are in any manner agents, subconsultants, or employees of City.

17. **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.

18. **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.

19. **STANDARD OF PERFORMANCE; WARRANTY.** Consultant agrees to perform all Services required by this Agreement in a professional and competent manner, in accordance with the degree of skill and diligence which is normally employed by reputable professionals performing similar Services under similar conditions in the same or similar locality. Such Services shall also be performed in a manner which is reasonably satisfactory to City Project Manager, or designee (hereinafter the "Project Manager"), provided that discretion in determining what is satisfactory shall not alter the foregoing standard of care.

    A. In accordance with the standard of care set forth in the first sentence of Section 19, the Consultant agrees that it:
    (1) Has thoroughly reviewed and considered the services and work to be performed; and
    (2) Has reviewed the issues regarding the Scope of Services to be provided; and
    (3) Has carefully considered how the services and related work should be performed; and
    (4) Fully understands the facilities, difficulties and restrictions associated with performance of the services required by this Agreement.

20. **OWNERSHIP OF CONSULTANT'S WORK PRODUCT, CONFIDENTIALITY & DISCLOSURE, RECORDS & WARRANTY.** 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.
    A. 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.
    B. 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 and as identified in the Scope of 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.

C. Records and Inspections**.** The Consultant shall maintain full and accurate records, with respect to all Services and matters covered under this Agreement. Books and records pertaining to costs shall be kept and prepared in accordance with generally accepted accounting principles. 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.

D. 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 7920.505) and may contain "trade secrets" (see Government Code Section 7924.510(f)) 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 7920.515.

E. 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.

F. 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.

21. 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.

22. **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 7. 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.

23. **INDEMNIFICATION, HOLD HARMLESS & DEFENSE.** Except as set forth in Subsection b of this Section 23, and to the fullest extent permitted by law, Consultant shall immediately defend, indemnify, and hold harmless the City, its officers, employees, representatives, and agents (the "City Indemnitees"), from and against those actions, suits, proceedings, claims, demands, losses, costs, and expenses, including legal costs and reasonable attorneys' fees, for any personal injuries, deaths, or property damage, including property owned by the City (collectively "Claims") which may arise out of Consultant's negligence or willful misconduct in the performance of the services described in this Agreement, unless such Claims are proven to be caused by the negligence or willful misconduct of the City Indemnitees.

    A. The provisions of this Subsection b 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.
    (1) Notwithstanding the provisions of Section 23 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 City 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.
    (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 b shall be construed to require Consultant to provide indemnification for Claims caused by the active negligence or willful misconduct of the City Indemnitees

B. The City does not and shall not waive any rights that it may have against Consultant under this Section, because of the acceptance by the City, or the deposit with the City, of any insurance policy or certificate required pursuant to this Agreement. The hold harmless and indemnification provisions of this Section 23 shall apply regardless of whether said insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost, or expense described herein.

C. The obligation to indemnify and defend, as set forth in this Section 23, is binding on the successors, assigns, or heirs of Consultant and shall survive the expiration or any early termination of this Agreement.

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 F” 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 Living Wage is updated on July 1 of each year, and the duty to pay the correct wage is the responsibility of the Consultant.

26. [INTENTIONALLY OMITTED]

27. IRAN CONTRACTING ACT. In accordance with the Iran Contract Act of 2010 (Public Contract Code sections 2200-2208) the City requires that any Consultant that submits a proposal or otherwise proposes to enter into or renew a contract with the City with respect to goods or Services of one million dollars ($1,000,000) or more, must certify, that the Consultant is not identified on a list created pursuant to subdivision (b) of

Public Contract Code Section 2203 as a person engaging in investment activities in Iran described in subdivision (a) of Public Contract Code Section 2202.5, or as a person described in subdivision (b) of Public Contract Code Section 2202.5, as applicable.

A Consultant is ineligible to enter into any contract with the City for goods or Services of one million dollars ($1,000,000) or more if the Consultant engages in investment activities in Iran. Consultant must certify that it is not on the list of ineligible vendors prohibited from doing business with the State of California and shall complete the Iran Contract Act Certification attached as Exhibit H.

28. **SUBCONTRACTING.** If Consultant requires the assistance of a subcontractor to render any Services under this Agreement, Consultant shall obtain prior written consent from the City before a subcontractor performs any service pursuant to this Agreement. All subcontractors shall be identified in the Scope of Work attached to this Agreement as “Exhibit A”. Consultant is fully responsible for satisfactory completion of all its subcontractors’ work. All subcontractors shall be properly licensed and insured; and bonded, if applicable. Consultant shall be responsible for all liabilities regardless of nature, type, or cause, arising out of or resulting from or in connection with subcontractors performance pursuant to this Agreement or subcontractors failure to comply with any of its obligations in connection with this Agreement.

29. **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.

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. **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.

33. **CARE OF WORK.** Should Consultant discover any latent or unknown conditions materially differing from those inherent in the Services or as represented by the City, Consultant shall immediately inform the City of such fact and shall not provide any Services, except at Consultant's risk, until written instructions are received from the Project Manager.

34. **REPORTS.** Upon request by the Project Manager or as otherwise required by this Agreement, including but not limited to, the Scope of Services set forth in Exhibit "A", Consultant shall prepare and submit reports to the City concerning Consultant's performance of the Services required by this Agreement.

35. **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.

36. **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.

37. **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.

38. **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.

39. **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.

40. **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.

41. **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.
42. **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.

43. **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.

44. **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.

45. **AUTHORITY TO EXECUTE.** Each Party hereto expressly warrants and represents that the signatories to this Agreement have the authority to execute this Agreement on behalf of its corporation, partnership, business entity, or governmental entity, and warrants and represents that the signatories have the authority to bind each Party to the performance of its obligations hereunder.

46. **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 or electronic 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.

47. **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 and 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.

48. **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.
49. **ACKNOWLEDGEMENT.** By signing below, Consultant acknowledges that it has reviewed the City's 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 4 and upon signature of all Parties.

CITY OF OXNARD

☐John C. Zaragoza, Mayor[1] Date

☐Jennifer Yates, Purchasing Manager[2]

FEHR & PEERS

, Date

, [3] Date

ATTEST:

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

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

PROFESSIONAL SERVICE AGREEMENT
(CITY of Oxnard and Fehr & Peers)

SCOPE OF SERVICES

PROJECT MANAGER: Debbie O'Leary / 805-200-5283 / debbie.oleary@oxnard.org

Licensing and Professional Certification

Required:

1. California-registered Civil Engineer and/or Traffic Engineer.

Scope of Services:

The following list includes anticipated tasks associated with, generally **providing routine transportation planning and grant writing.** Work will involve assisting with capital improvement and special projects. The following list is not all-inclusive.

1. Transportation planning and grant writing for state and regional funding programs for traffic studies and infrastructure improvement projects. Grant application development includes cost estimating, cost-benefit analysis, completing all required application exhibits, narratives, etc.

2. Development and updates of transportation-related policies and guidelines including transportation master plans.

3. Development of traffic impact fees and updates.

4. Transportation modeling of multi-modal travel demand and traffic volume forecasts.

5. Planning and conceptual designs of complete streets in light of established standards and guidelines, as well as assessment of potential operational impacts (such as the impacts on auto traffic that could result from a road diet to provide bike lanes).

6. Traffic feasibility studies and analysis for projects such as roundabouts, traffic circles, Class I and IV bike lanes, etc.

7. Traffic data collection in support of transportation planning and grant writing services.

8. Traffic data collision review and analysis related to transportation planning and

grant writing services.

9. Development of transportation planning documents, consisting of all items of work necessary to deliver transportation planning documents for City Council approval or adoption. Deliverables of transportation planning work includes:

    a. Schedule and conduct a kick-off meeting with City Staff and as-needed project development team (PDT) meetings (virtual or in-person);
    b. Schedule and conduct meetings with City Staff and various stakeholders (virtual or in-person);
    c. Educational programming, activities, events, and social media promotional materials;
    d. Obtain and review as-built plans, reports, maps, and data at the City of Oxnard Service Center, 214 S. C Street, where data can be accessed (not all data is available online);
    e. Conduct field investigations and walkability assessments to assess existing conditions for the purpose of identifying any additional work necessary but not previously included in any project grant applications; and
    f. Planning reports shall be submitted to the City for review and comment at the 65%, 95%, and 100% stages;

10. Prepare and deliver presentations to the City Council, Public Works Transportation Committee, Planning Commission, and others

EXHIBIT B

PROFESSIONAL SERVICE AGREEMENT
(CITY of Oxnard and Fehr & Peers)

SCHEDULE OF COMPENSATION

FEHR & PEERS	
Classification	**Hourly Billing Rate**
Principal	$280 - $400
Senior Associate	$210 - $325
Associate	$185 - $285
Senior Engineer/Planner	$160 - $235
Engineer/Planner	$130 - $190
Senior Engineering Technician	$150 - $240
Senior Project Accountant	$185 - $195
Senior Project Coordinator	$125 - $185
Project Coordinator	$125 - $175
Technician	$145 - $190
Intern	$100 - $130
Project Management Personnel Hourly Rates	
Chelsea Richer (Principal)	$300
Matt Benjamin (Principal)	$360
Claude Strayer (Principal)	$300
Other Direct Costs	
Reimbursable Expenses	Cost + 10%
Personal Auto Mileage	$0.67 per mile
HERE.LA	
Classification	**Hourly Billing Rate**
Principal	$300
Senior Urban Designer	$210
Urban Designer II	$185
Urban Designer I	$150
Intern / Admin	$105
KEARNS & WEST	
Classification	**Hourly Billing Rate**
Principal	$345
Vice President	$290
Senior Director	$245
Director	$225
Senior Associate	$200
Associate	$175
Project Coordinator	$145
HUITT ZOLLARS	
Engineering / Architecture	
Classification	**Hourly Billing Rate**
Principal	$340

Senior Project Manager	$315
Design Principal	$260
QA Manager	$250
Project Manager	$280
Senior Civil Engineer	$250
Senior Structural Engineer	$270
Senior Mechanical Engineer	$250
Senior Electrical Engineer	$250
Civil Engineer	$225
Structural Engineer	$200
Mechanical Engineer	$200
Electrical Engineer	$200
Plumbing Engineer	$200
EIT	$165
Senior Architect	$215
Senior NL Architectural Staff	$200
Architect	$200
Architect Intern 3	$175
Architect Intern 2	$135
Architect Intern 1	$120
Senior Landscape Architect	$225
Landscape Architect	$160
Landscape Architect Intern	$120
Senior Designer	$195
Designer	$160
Senior CADD Technician	$145
CADD Technician	$120
Interior Design	
Senior Interior Designer	$170
Interior Designer	$120
Interior Designer Intern	$105
Survey	
Survey Manager	$290
Senior Project Surveyor	$230
Project Surveyor	$160
Survey Technician	$125
Survey Crews	
1-Person Survey Crew	$220
2-Person Survey Crew	$315
3-Person Survey Crew	$405
Construction	
Construction Manager	$180
Resident Engineer	$165
Inspector/Owner's Representative	$130
Senior Project Representative	$125
Resident Project Representative	$100
Administrative	
Senior Project Support	$125

Project Support	$115
Reimbursable Expenses	
Consultants	Cost + 10%
Other Direct Costs	Cost + 10%
Mileage	IRS Standard Business Mileage Rate
WALK'N ROLLERS	
Jim Shanman (Project Lead)	$175
Wendy Ortiz (Programs Manager)	$125
Imelda Romero (Assistant Projects Coordinator/Instructors)	$100
Administrative Assistant	$75

EXHIBIT C

PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Fehr & Peers)

INSURANCE REQUIREMENTS

Prior to contract approval and beginning of services under this agreement, 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.

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 have a one year extended reporting period.

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

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

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

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

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

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

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

10/24

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

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

Endorsement Forms

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

INS-A.doc

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER

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

CODE SUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY LETTER A SPECIFY COMPANY NAMES IN THIS SPACE

COMPANY LETTER B

COVERAGES

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

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

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

CERTIFICATE HOLDER

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

CANCELLATION

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

AUTHORIZED REPRESENTATIVE

Rev. 10/24 INS-A.doc

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

COVERAGES

	LIABILITY LIMITS IN THOUSANDS $	
	EACH OCCURRENCE	AGGREGATE
☼ GENERAL		
☼ PRODUCTS/COMPLETED OPERATIONS		
☼ PERSONAL & ADVERTISING INJURY		
☼ FIRE 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:

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 ☼ _____
_____ (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

PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Fehr & Peers)

RESTRICTED GRANT AGREEMENT

EXHIBIT E

PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Fehr & Peers)

FEDERAL & STATE FUNDING REQUIREMENTS - CALTRANS PROJECTS

The provisions of Exhibit E hereof are from the Caltrans Local Assistance Procedures Manual ("LAPM") as Exhibit 10-R thereto dated September 2022. The provisions listed below are from Exhibit 10-R for which there is not a comparable provision otherwise in this Agreement. A complete copy of Exhibit 10-R can be found on the web at https://dot.ca.gov/programs/local-assistance/forms/local-assistance-procedures-manual-forms. Certain provisions of this Exhibit E only apply if the box immediately to the left of the Section is checked. If a box is to the left of any Section of this Agreement and it is not checked, the provision does not apply to this Agreement. If there is no check box provided, the provision applies to this Agreement. In the event of any contradictions or inconsistencies between these provisions and the provisions of the Agreement itself, the terms of this Exhibit shall control. For purposes of this Exhibit, the phrase "CONTRACT ADMINISTRATOR" shall be City's Designated Representative as identified in Section 20 of this Agreement.

ARTICLE I - INTRODUCTION

A. Any third-party person(s) employed by CONSULTANT shall be entirely and exclusively under the direction, supervision, and control of CONSULTANT. CONSULTANT hereby indemnifies and holds CITY harmless from any and all claims that may be made against CITY based upon any contention by any third party that an employer-employee relationship exists by reason of this AGREEMENT.

B. CONSULTANT shall be as fully responsible to the CITY for the negligent acts and omissions of its contractors and subcontractors or subconsultants, and of persons either directly or indirectly employed by them, in the same manner as persons directly employed by CONSULTANT.

C. No alteration or variation of the terms of this AGREEMENT shall be valid, unless made in writing and signed by the parties authorized to bind the parties; and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.

D. The consideration to be paid to CONSULTANT as provided herein, shall be in compensation for all of CONSULTANT's expenses incurred in the performance hereof, including travel and per diem, unless otherwise expressly so provided.

ARTICLE II - CONSULTANT'S REPORTS OR MEETINGS

A. CONSULTANT shall submit progress reports at least once a month. The report should be sufficiently detailed for the CITY's Contract Administrator to

determine, if CONSULTANT is performing to expectations, or is on schedule; to provide communication of interim findings, and to sufficiently address any difficulties or special problems encountered, so remedies can be developed.

B. CONSULTANT's Project Manager shall meet with CITY's Contract Administrator, as needed, to discuss progress on the AGREEMENT.

ARTICLE III – STATEMENT OF WORK

X A. CONSULTANT Services

☐ B. Right of Way
- ☐ Right of Way requirements are to be determined and shown by CONSULTANT;
- ☐ Land surveys and computations with metes and bounds descriptions are to be made; and,
- ☐ Right of Way parcel maps are to be furnished.

☐ C. Surveys
- ☐ CONSULTANT has the responsibility for performing preliminary or construction surveys.

☐ D. Subsurface Investigations

CONSULTANT has responsibility for making subsurface investigations. If borings or other specialized services are to be made by others under the supervision of CONSULTANT, appropriate provisions are to be incorporated, including the following _____. Archaeological testing and data recovery guidance can be found in the Standard Environmental Reference.

E. CITY Obligations

All data applicable to the project and in possession of CITY, another agency, or government agency that are to be made available to CONSULTANT are referred to in the AGREEMENT. Any other assistance or services to be furnished to CONSULTANT are to be stated clearly.

☐ F. Conferences, Site Visits, Inspection of Work

This AGREEMENT provides for conferences as needed, visits to the site, and inspection of the work by representatives of the CITY, State, and/or FHWA. Costs incurred by CONSULTANT for meetings, subsequent to the initial meeting shall be included in the fee.

☐ G. Checking Shop Drawings

This Agreement requires the preparation of construction drawings which must be checked. CONSULTANT agrees that the payment for checking shop drawings by CONSULTANT is included in the fee charged by CONSULTANT under this AGREEMENT.

☐ H. CONSULTANT Services During Construction

The extent, if any of CONSULTANT's services during the course of construction as material testing, construction surveys. etc., are specified in the AGREEMENT together with the method of payment for such services.

☐ I. Documentation and Schedules

AGREEMENTs where appropriate, shall provide that CONSULTANT document the results of the work to the satisfaction of CITY, and if applicable, the State and FHWA. This may include preparation of progress and final reports, plans, specifications and estimates, or similar evidence of attainment of the AGREEMENT objectives.

ARTICLE IV – PERFORMANCE PERIOD

None.

ARTICLE V – ALLOWABLE COSTS AND PAYMENTS

A. CONSULTANT will be reimbursed for hours worked at the hourly rates specified in the CONSULTANT's approved Cost Proposal. The specified hourly rates shall include direct salary costs, employee benefits, prevailing wages, employer payments, overhead, and fee. These rates are not adjustable for the performance period set forth in this AGREEMENT. CONSULTANT will be reimbursed within thirty (30) days upon receipt by CITY'S Contract Administrator of itemized invoices in duplicate.

B. In addition, CONSULTANT will be reimbursed for incurred (actual) direct costs other than salary costs that are in the approved Cost Proposal and identified in the approved Cost Proposal and in the executed Task Order.

C. Specific projects will be assigned to CONSULTANT through issuance of Task Orders.

D. After a project to be performed under this AGREEMENT is identified by CITY, CITY will prepare a draft Task Order; less the cost estimate. A draft Task Order will identify the scope of services, expected results,

project deliverables, period of performance, project schedule and will designate a CITY Project Coordinator. The draft Task Order will be delivered to CONSULTANT for review. CONSULTANT shall return the draft Task Order within ten (10) calendar days along with a Cost Estimate, including a written estimate of the number of hours and hourly rates per staff person, any anticipated reimbursable expenses, overhead, fee if any, and total dollar amount. After agreement has been reached on the negotiable items and total cost; the finalized Task Order shall be signed by both CITY and CONSULTANT.

E. Task Orders may be negotiated for a lump sum (Firm Fixed Price) or for specific rates of compensation, both of which must be based on the labor and other rates set forth in CONSULTANT's approved Cost Proposal. CONSULTANT shall be responsible for any future adjustments to prevailing wage rates including, but not limited to, base hourly rates and employer payments as determined by the Department of Industrial Relations. CONSULTANT is responsible for paying the appropriate rate, including escalations that take place during the term of the AGREEMENT.

F. [Local Agency to include either (a) or (b) below; delete the other one]
(a) Reimbursement for transportation and subsistence costs shall not exceed State rates.
(b) Reimbursement for transportation and subsistence costs shall not exceed the rates as specified in the approved Cost Proposal. CONSULTANT will be responsible for transportation and subsistence costs in excess of State rates.

G. When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval in the form of an AGREEMENT amendment for a revised milestone cost estimate from the Contract Administrator before exceeding such estimate. H. Progress payments for each Task Order will be made monthly in arrears based on services provided and actual costs incurred.

I. CONSULTANT shall not commence performance of work or services until this AGREEMENT has been approved by CITY and notification to proceed has been issued by CITY'S Contract Administrator. No payment will be made prior to approval or for any work performed prior to approval of this AGREEMENT.

J. A Task Order is of no force or effect until returned to CITY and signed by an authorized representative of CITY. No expenditures are authorized on a project and work shall not commence until a Task Order for that project has been executed by CITY.

K. CONSULTANT will be reimbursed within thirty (30) days upon receipt by CITY'S Contract Administrator of itemized invoices in duplicate. Separate invoices itemizing all costs are required for all work performed under each Task Order. Invoices shall be submitted no later than thirty (30) calendar days after the performance of work for which CONSULTANT is billing, or upon completion of the Task Order.

Invoices shall detail the work performed on each milestone, on each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this AGREEMENT number, project title and Task Order number. Credits due CITY that include any equipment purchased under the provisions of Article XI Equipment Purchase, must be reimbursed by CONSULTANT prior to the expiration or termination of this AGREEMENT. Invoices shall be mailed to CITY's Contract Administrator at the following address: Debbie O'Leary, Transportation Planner, 215 S. C Street, Oxnard, CA 93030.

L. The period of performance for Task Orders shall be in accordance with dates specified in the Task Order. No Task Order will be written which extends beyond the expiration date of this AGREEMENT.

M. The total amount payable by CITY for an individual Task Order shall not exceed the amount agreed to in the Task Order, unless authorized by amendment.

N. If CONSULTANT fails to satisfactorily complete a deliverable according to the schedule set forth in a Task Order, no payment will be made until the deliverable has been satisfactorily completed.

O. Task Orders may not be used to amend the language (or the terms) of this AGREEMENT nor to exceed the scope of work under this AGREEMENT.

P. The total amount payable by CITY for all Task Orders resulting from this AGREEMENT shall not exceed $1,500,000. It is understood and agreed that there is no guarantee, either expressed or implied that this dollar amount will be authorized under this AGREEMENT through Task Orders.

ARTICLE VI – TERMINATION

See Section 15 of the Agreement.

ARTICLE VII - COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS

A. The CONSULTANT agrees that 48 CFR Part 31, Contract Cost Principles and Procedures, shall be used to determine the allowability of individual terms of cost.

B. The CONSULTANT also agrees to comply with Federal procedures in accordance with 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

C. Any costs for which payment has been made to the CONSULTANT that are determined by subsequent audit to be unallowable under 48 CFR Part 31 or 2 CFR Part 200 are subject to repayment by the CONSULTANT to

CITY.

D. When a CONSULTANT or Subconsultant is a Non-Profit Organization or an Institution of Higher Education, the Cost Principles for Title 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards shall apply.

ARTICLE VIII RETENTION OF RECORD/AUDITS

For the purpose of determining compliance with Government Code § 8546.7, the CONSULTANT, Subconsultants, and CITY shall maintain all books, documents, papers, accounting records, Independent CPA Audited Indirect Cost Rate workpapers, and other evidence pertaining to the performance of the AGREEMENT including, but not limited to, the costs of administering the AGREEMENT. All parties, including the CONSULTANT's Independent CPA, shall make such workpapers and materials available at their respective offices at all reasonable times during the AGREEMENT period and for three (3) years from the date of final payment under the AGREEMENT. CITY, Caltrans Auditor, FHWA, or any duly authorized representative of the Federal government having jurisdiction under Federal laws or regulations (including the basis of Federal funding in whole or in part) shall have access to any books, records, and documents of the CONSULTANT, Subconsultants, and the CONSULTANT's Independent CPA, that are pertinent to the AGREEMENT for audits, examinations, workpaper review, excerpts, and transactions, and copies thereof shall be furnished if requested without limitation.

ARTICLE IX AUDIT REVIEW PROCEDURES

A. Any dispute concerning a question of fact arising under an interim or post audit of this AGREEMENT that is not disposed of by AGREEMENT, shall be reviewed by CITY'S Chief Financial Officer.

B. Not later than thirty (30) calendar days after issuance of the final audit report, CONSULTANT may request a review by CITY'S Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.

C. Neither the pendency of a dispute nor its consideration by CITY will excuse CONSULTANT from full and timely performance, in accordance with the terms of this AGREEMENT.

D. CONSULTANT and subconsultant Agreements, including cost proposals and Indirect Cost Rates (ICR), may be subject to audits or reviews such as, but not limited to, an AGREEMENT audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the AGREEMENT, cost proposal and ICR and related work papers, if applicable, will be reviewed to

verify compliance with 48 CFR Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is CONSULTANT's responsibility to ensure federal, CITY, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The AGREEMENT, cost proposal, and ICR shall be adjusted by CONSULTANT and approved by CITY Contract Administrator to conform to the audit or review recommendations. CONSULTANT agrees that individual terms of costs identified in the audit report shall be incorporated into the AGREEMENT by this reference if directed by CITY at its sole discretion. Refusal by CONSULTANT to incorporate audit or review recommendations, or to ensure that the federal, CITY or local governments have access to CPA work papers, will be considered a breach of AGREEMENT terms and cause for termination of the AGREEMENT and disallowance of prior reimbursed costs.

E. CONSULTANT's Cost Proposal may be subject to a CPA ICR Audit Work Paper Review and/or audit by the Independent Office of Audits and Investigations (IOAI). IOAI, at its sole discretion, may review and/or audit and approve the CPA ICR documentation. The Cost Proposal shall be adjusted by the CONSULTANT and approved by the CITY Contract Administrator to conform to the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report. Refusal by the CONSULTANT to incorporate the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report will be considered a breach of the AGREEMENT terms and cause for termination of the AGREEMENT and disallowance of prior reimbursed costs.

1. During IOAI's review of the ICR audit work papers created by the CONSULTANT's independent CPA, IOAI will work with the CPA and/or CONSULTANT toward a resolution of issues that arise during the review. Each party agrees to use its best efforts to resolve any audit disputes in a timely manner. If IOAI identifies significant issues during the review and is unable to issue a cognizant approval letter, CITY will reimburse the CONSULTANT at an accepted ICR until a FAR (Federal Acquisition Regulation) compliant ICR {e.g. 48 CFR Part 31; GAGAS (Generally Accepted Auditing Standards); CAS (Cost Accounting Standards), if applicable; in accordance with procedures and guidelines of the American Association of State Highways and Transportation Officials (AASHTO) Audit Guide; and other applicable procedures and guidelines}is received and approved by IOAI.

Accepted rates will be as follows:

a. If the proposed rate is less than one hundred fifty percent (150%) - the accepted rate reimbursed will be ninety percent (90%) of the proposed rate.

b. If the proposed rate is between one hundred fifty percent (150%) and two

hundred percent (200%) - the accepted rate will be eighty-five percent (85%) of the proposed rate.

c. If the proposed rate is greater than two hundred percent (200%) - the accepted rate will be seventy-five percent (75%) of the proposed rate.

2. If IOAI is unable to issue a cognizant letter per paragraph E.1. above, IOAI may require CONSULTANT to submit a revised independent CPA-audited ICR and audit report within three (3) months of the effective date of the management letter. IOAI will then have up to six (6) months to review the CONSULTANT's and/or the independent CPA's revisions.

3. If the CONSULTANT fails to comply with the provisions of this paragraph E, or if IOAI is still unable to issue a cognizant approval letter after the revised independent CPA audited ICR is submitted, overhead cost reimbursement will be limited to the accepted ICR that was established upon initial rejection of the ICR and set forth in paragraph E.1. above for all rendered services. In this event, this accepted ICR will become the actual and final ICR for reimbursement purposes under this AGREEMENT.

4. CONSULTANT may submit to CITY final invoice only when all of the following items have occurred: (1) IOAI accepts or adjusts the original or revised independent CPA audited ICR; (2) all work under this AGREEMENT has been completed to the satisfaction of CITY; and, (3) IOAI has issued its final ICR review letter. The CONSULTANT MUST SUBMIT ITS FINAL INVOICE TO CITY no later than sixty (60) calendar days after occurrence of the last of these items. The accepted ICR will apply to this AGREEMENT and all other agreements executed between CITY and the CONSULTANT, either as a prime or subconsultant, with the same fiscal period ICR.

ARTICLE X – SUBCONTRACTING

A. Any subagreement entered into as a result of this AGREEMENT, shall contain all the provisions stipulated in this entire AGREEMENT to be applicable to Subconsultants unless otherwise noted.

D. CONSULTANT shall pay its Subconsultants within Fifteen (15) calendar days from receipt of each payment made to the CONSULTANT by the CITY.

E. Any substitution of Subconsultants must be approved in writing by the CITY Contract Administrator in advance of assigning work to a substitute Subconsultant.

F. Prompt Progress Payment

CONSULTANT or subconsultant shall pay to any subconsultant, not later than fifteen (15) days after receipt of each progress payment, unless otherwise agreed to in writing, the respective amounts allowed CONSULTANT on account of the work performed by the subconsultants, to the extent of each subconsultant's interest therein. In the event that there is a good faith dispute over all or any portion of the amount due on a progress payment from CONSULTANT or subconsultant to a subconsultant, CONSULTANT or subconsultant may withhold no more than 150 percent of the disputed amount. Any violation of this requirement shall constitute a cause for disciplinary action and shall subject the licensee to a penalty, payable to the subconsultant, of 2 percent of the amount due per month for every month that payment is not made.

In any action for the collection of funds wrongfully withheld, the prevailing party shall be entitled to his or her attorney's fees and costs. The sanctions authorized under this requirement shall be separate from, and in addition to, all other remedies, either civil, administrative, or criminal. This clause applies to both DBE and non-DBE subconsultants.

G. Prompt Payment of Withheld Funds to Subconsultants

The CITY may hold retainage from CONSULTANT and shall make prompt and regular incremental acceptances of portions, as determined by the CITY, of the contract work, and pay retainage to CONSULTANT based on these acceptances. The CITY shall designate one of the methods below in the contract to ensure prompt and full payment of any retainage kept by CONSULTANT or subconsultant to a subconsultant.

X **Method 1**: No retainage will be held by the CITY from progress payments due to CONSULTANT. CONSULTANTS and subconsultants are prohibited from holding retainage from subconsultants. Any delay or postponement of payment may take place only for good cause and with the CITY's prior written approval. Any violation of these provisions shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions, and other remedies specified in Section 3321 of the California Civil Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies, otherwise available to CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by CONSULTANT, deficient subconsultant performance and/or noncompliance by a subconsultant.

This clause applies to both DBE and non-DBE subconsultants.

☐ **Method 2**: No retainage will be held by the CITY from progress payments due to CONSULTANT. Any retainage kept by CONSULTANT or by a subconsultant must be paid in full to the earning subconsultant within 15

days after the subconsultant's work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the CITY's prior written approval. Any violation of these provisions shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions, and remedies specified in Section 3321 of the California Civil Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies, otherwise available to CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by CONSULTANT, deficient subconsultant performance and/or noncompliance by a subconsultant. This clause applies to both DBE and non-DBE subconsultants.

☐ **Method 3**: The CITY shall hold retainage from CONSULTANT and shall make prompt and regular incremental acceptances of portions, as determined by the CITY of the contract work and pay retainage to CONSULTANT based on these acceptances. CONSULTANT or subconsultant shall return all monies withheld in retention from all subconsultants within 15 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the CITY. Any delay or postponement of payment may take place only for good cause and with the CITY's prior written approval. Any violation of these provisions shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions, and other remedies specified in Section 3321 of the California Civil Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies otherwise available to CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by CONSULTANT; deficient subconsultant performance and/or noncompliance by a subconsultant. This clause applies to both DBE and non-DBE subconsultants.

Any violation of these provisions shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions and other remedies specified therein. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by CONSULTANT, deficient subcontract performance, or noncompliance by a subconsultant.

ARTICLE XI EQUIPMENT PURCHASE AND OTHER CAPITAL EXPENDITURES

A. Prior authorization in writing by CITY's Contract Administrator shall be required before CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding five thousand dollars ($5,000) for supplies, equipment, or CONSULTANT services. CONSULTANT shall provide an evaluation of the

necessity or desirability of incurring such costs.

B. For purchase of any item, service, or consulting work not covered in CONSULTANT's approved Cost Proposal and exceeding five thousand dollars ($5,000), with prior authorization by CITY's Contract Administrator, three competitive quotations must be submitted with the request, or the absence of proposal must be adequately justified.

C. Any equipment purchased with funds provided under the terms of this AGREEMENT is subject to the following:

1. CONSULTANT shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of five thousand dollars ($5,000) or more. If the purchased equipment needs replacement and is sold or traded in, CITY shall receive a proper refund or credit at the conclusion of the AGREEMENT, or if the AGREEMENT is terminated, CONSULTANT may either keep the equipment and credit CITY in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established CITY procedures; and credit CITY in an amount equal to the sales price. If CONSULTANT elects to keep the equipment, fair market value shall be determined at CONSULTANT's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by CITY and CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by CITY.

2. Regulation 2 CFR Part 200 requires a credit to Federal funds when participating equipment with a fair market value greater than five thousand dollars ($5,000) is credited to the project.

ARTICLE XII – STATE PREVAILING WAGE RATES

A. No CONSULTANT or Subconsultant may be awarded an AGREEMENT containing public work elements unless registered with the Department of Industrial Relations (DIR) pursuant to Labor Code §1725.5. Registration with DIR must be maintained throughout the entire term of this AGREEMENT, including any subsequent amendments.

B. The CONSULTANT shall comply with all of the applicable provisions of the California Labor Code requiring the payment of prevailing wages. The General Prevailing Wage Rate Determinations applicable to work under this AGREEMENT are available and on file with the Department of Transportation's Regional/District Labor Compliance Officer (https://dot.ca.gov/programs/construction/labor-compliance). These wage rates are made a specific part of this AGREEMENT by reference pursuant to Labor Code

§1773.2 and will be applicable to work performed at a construction project site. Prevailing wages will be applicable to all inspection work performed at CITY construction sites, at CITY facilities and at off-site locations that are set up by the construction contractor or one of its subcontractors solely and specifically to serve CITY projects. Prevailing wage requirements do not apply to inspection work performed at the facilities of vendors and commercial materials suppliers that provide goods and services to the general public.

C. General Prevailing Wage Rate Determinations applicable to this project may also be obtained from the Department of Industrial Relations website at http://www.dir.ca.gov.

D. Payroll Records

1. Each CONSULTANT and Subconsultant shall keep accurate certified payroll records and supporting documents as mandated by Labor Code §1776 and as defined in 8 CCR §16000 showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the CONSULTANT or Subconsultant in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

   a. The information contained in the payroll record is true and correct.

   b. The employer has complied with the requirements of Labor Code §1771, §1811, and §1815 for any work performed by his or her employees on the public works project.

2. The payroll records enumerated under paragraph (1) above shall be certified as correct by the CONSULTANT under penalty of perjury. The payroll records and all supporting documents shall be made available for inspection and copying by CITY representatives at all reasonable hours at the principal office of the CONSULTANT. The CONSULTANT shall provide copies of certified payrolls or permit inspection of its records as follows:

   a. A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or the employee's authorized representative on request.

   b. A certified copy of all payroll records enumerated in paragraph (1) above, shall be made available for inspection or furnished upon request to a representative of CITY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations. Certified payrolls submitted to CITY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards shall not be altered or obliterated by the CONSULTANT.

c. The public shall not be given access to certified payroll records by the CONSULTANT. The CONSULTANT is required to forward any requests for certified payrolls to the LOCAL AGENCY Contract Administrator by both email and regular mail on the business day following receipt of the request.

3. Each CONSULTANT shall submit a certified copy of the records enumerated in paragraph (1) above, to the entity that requested the records within ten (10) calendar days after receipt of a written request.

4. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by CITY shall be marked or obliterated in such a manner as to prevent disclosure of each individual's name, address, and social security number. The name and address of the CONSULTANT or Subconsultant performing the work shall not be marked or obliterated.

5. The CONSULTANT shall inform CITY of the location of the records enumerated under paragraph (1) above, including the street address, city and county, and shall, within five (5) working days, provide a notice of a change of location and address.

6. The CONSULTANT or Subconsultant shall have ten (10) calendar days in which to comply subsequent to receipt of written notice requesting the records enumerated in paragraph (1) above. In the event the CONSULTANT or Subconsultant fails to comply within the ten (10) day period, he or she shall, as a penalty to CITY, forfeit one hundred dollars ($100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Such penalties shall be withheld by CITY from payments then due. CONSULTANT is not subject to a penalty assessment pursuant to this section due to the failure of a Subconsultant to comply with this section.

E. When prevailing wage rates apply, the CONSULTANT is responsible for verifying compliance with certified payroll requirements. Invoice payment will not be made until the invoice is approved by the CITY Contract Administrator.

F. Penalty

1. The CONSULTANT and any of its Subconsultants shall comply with Labor Code §1774 and §1775. Pursuant to Labor Code §1775, the CONSULTANT and any Subconsultant shall forfeit to the CITY a penalty of not more than two hundred dollars ($200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of DIR for the work or craft in which the worker is employed for any public work done under the AGREEMENT by the CONSULTANT or by its Subconsultant in violation of the requirements of the Labor Code and in particular, Labor Code §§1770 to 1780, inclusive.

2. The amount of this forfeiture shall be determined by the Labor Commissioner and shall be based on consideration of mistake, inadvertence, or neglect of the

CONSULTANT or Subconsultant in failing to pay the correct rate of prevailing wages, or the previous record of the CONSULTANT or Subconsultant in meeting their respective prevailing wage obligations, or the willful failure by the CONSULTANT or Subconsultant to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rates of prevailing wages is not excusable if the CONSULTANT or Subconsultant had knowledge of the obligations under the Labor Code. The CONSULTANT is responsible for paying the appropriate rate, including any escalations that take place during the term of the AGREEMENT.

3. In addition to the penalty and pursuant to Labor Code §1775, the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the CONSULTANT or Subconsultant.

4. If a worker employed by a Subconsultant on a public works project is not paid the general prevailing per diem wages by the Subconsultant, the prime CONSULTANT of the project is not liable for the penalties described above unless the prime CONSULTANT had knowledge of that failure of the Subconsultant to pay the specified prevailing rate of wages to those workers or unless the prime CONSULTANT fails to comply with all of the following requirements:

   a. The AGREEMENT executed between the CONSULTANT and the Subconsultant for the performance of work on public works projects shall include a copy of the requirements in Labor Code §§ 1771, 1775, 1776, 1777.5, 1813, and 1815.

   b. The CONSULTANT shall monitor the payment of the specified general prevailing rate of per diem wages by the Subconsultant to the employees by periodic review of the certified payroll records of the Subconsultant.

   c. Upon becoming aware of the Subconsultant's failure to pay the specified prevailing rate of wages to the Subconsultant's workers, the CONSULTANT shall diligently take corrective action to halt or rectify the failure, including but not limited to, retaining sufficient funds due the Subconsultant for work performed on the public works project.

   d. Prior to making final payment to the Subconsultant for work performed on the public works project, the CONSULTANT shall obtain an affidavit signed under penalty of perjury from the Subconsultant that the Subconsultant had paid the specified general prevailing rate of per diem wages to the Subconsultant's employees on the public works project and any amounts due pursuant to Labor Code §1813.

5. Pursuant to Labor Code §1775, CITY shall notify the CONSULTANT on a public works project within fifteen (15) calendar days of receipt of a complaint that a Subconsultant has failed to pay workers the general prevailing rate of per diem

wages.

6. If CITY determines that employees of a Subconsultant were not paid the general prevailing rate of per diem wages and if CITY did not retain sufficient money under the AGREEMENT to pay those employees the balance of wages owed under the general prevailing rate of per diem wages, the CONSULTANT shall withhold an amount of moneys due the Subconsultant sufficient to pay those employees the general prevailing rate of per diem wages if requested by CITY.

G. Hours of Labor

Eight (8) hours labor constitutes a legal day's work. The CONSULTANT shall forfeit, as a penalty to the CITY, twenty-five dollars ($25) for each worker employed in the execution of the AGREEMENT by the CONSULTANT or any of its Subconsultants for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of the Labor Code, and in particular §§1810 to 1815 thereof, inclusive, except that work performed by employees in excess of eight (8) hours per day, and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day and forty (40) hours in any week, at not less than one and one-half (1.5) times the basic rate of pay, as provided in §1815.

H. Employment of Apprentices

1. Where either the prime AGREEMENT or the subagreement exceeds thirty thousand dollars ($30,000), the CONSULTANT and any subconsultants under him or her shall comply with all applicable requirements of Labor Code §§ 1777.5, 1777.6 and 1777.7 in the employment of apprentices.

2. CONSULTANTs and subconsultants are required to comply with all Labor Code requirements regarding the employment of apprentices, including mandatory ratios of journey level to apprentice workers. Prior to commencement of work, CONSULTANT and subconsultants are advised to contact the DIR Division of Apprenticeship Standards website at https://www.dir.ca.gov/das/, for additional information regarding the employment of apprentices and for the specific journey-to- apprentice ratios for the AGREEMENT work. The CONSULTANT is responsible for all subconsultants' compliance with these requirements. Penalties are specified in Labor Code §1777.7.

ARTICLE XIII – CONFLICT OF INTEREST

A. During the term of this AGREEMENT, the CONSULTANT shall disclose any financial, business, or other relationship with CITY that may have an impact upon the outcome of this AGREEMENT or any ensuing CITY construction project. The CONSULTANT shall also list current clients who may have a financial interest in the outcome of this AGREEMENT or any ensuing CITY construction project

which will follow.

B. CONSULTANT certifies that it has disclosed to CITY any actual, apparent, or potential conflicts of interest that may exist relative to the services to be provided pursuant to this AGREEMENT. CONSULTANT agrees to advise CITY of any actual, apparent or potential conflicts of interest that may develop subsequent to the date of execution of this AGREEMENT. CONSULTANT further agrees to complete any statements of economic interest if required by either CITY ordinance or State law.

C. The CONSULTANT hereby certifies that it does not now have nor shall it acquire any financial or business interest that would conflict with the performance of services under this AGREEMENT.

D. The CONSULTANT hereby certifies that the CONSULTANT or subconsultant and any firm affiliated with the CONSULTANT or subconsultant that bids on any construction contract or on any Agreement to provide construction inspection for any construction project resulting from this AGREEMENT, has established necessary controls to ensure a conflict of interest does not exist. An affiliated firm is one, which is subject to the control of the same persons, through joint ownership or otherwise.

ARTICLE XIV – REBATES, KICKBACK, OR OTHER UNLAWFUL CONSIDERATION

The CONSULTANT warrants that this AGREEMENT was not obtained or secured through rebates, kickbacks or other unlawful consideration either promised or paid to any CITY employee. For breach or violation of this warranty, CITY shall have the right, in its discretion, to terminate this AGREEMENT without liability, to pay only for the value of the work actually performed, or to deduct from this AGREEMENT price or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

ARTICLE XV – PROHIBITION OF EXPENDING CITY, STATE, OR FEDERAL FUNDS FOR LOBBYING

A. The CONSULTANT certifies, to the best of his or her knowledge and belief, that:

1. No State, Federal, or CITY appropriated funds have been paid or will be paid, by or on behalf of the CONSULTANT, to any person for influencing or attempting to influence an officer or employee of any local, State, or Federal agency, a Member of the State Legislature or United States Congress, an officer or employee of the Legislature or Congress, or any employee of a Member of the Legislature or Congress in connection with the awarding or making of this AGREEMENT, or with the extension, continuation, renewal, amendment, or modification of this AGREEMENT.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this AGREEMENT, the CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than ten thousand dollars ($10,000) and not more than one hundred thousand dollars ($100,000) for each such failure.

C. The CONSULTANT also agrees by signing this document that he or she shall require that the language of this certification be included in all lower tier subagreements, which exceed one hundred thousand dollars ($100,000), and that all such subrecipients shall certify and disclose accordingly.

ARTICLE XVI – NON-DISCRIMINATION CLAUSE AND STATEMENT OF COMPLIANCE

A. The CONSULTANT's signature affixed herein and dated shall constitute a certification under penalty of perjury under the laws of the State of California that the CONSULTANT has, unless exempt, complied with the nondiscrimination program requirements of Gov. Code §12990 and 2 CCR § 8103.

B. During the performance of this AGREEMENT, CONSULTANT and its subconsultants shall not deny the AGREEMENT's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. CONSULTANT and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.

C. CONSULTANT and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 et seq.), the applicable regulations promulgated there under (2 CCR §11000 et seq.), the provisions of Gov. Code §§11135-11139.5, and the regulations or standards adopted by CITY to implement such article. The applicable regulations of the Fair Employment

and Housing Commission implementing Gov. Code §12990 (a-f), set forth 2 CCR §§8100-8504, are incorporated into this AGREEMENT by reference and made a part hereof as if set forth in full.

D. CONSULTANT shall permit access by representatives of the Department of Fair Employment and Housing and the CITY upon reasonable notice at any time during the normal business hours, but in no case less than twenty-four (24) hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or CITY shall require to ascertain compliance with this clause.

E. CONSULTANT and its subconsultant*s* shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

F. CONSULTANT shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this AGREEMENT.

G. The CONSULTANT, with regard to the work performed under this AGREEMENT, shall act in accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d *et seq*.). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the United States shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.

H. The CONSULTANT shall comply with regulations relative to non-discrimination in federally- assisted programs of the U.S. Department of Transportation (49 CFR Part 21 - Effectuation of Title VI of the Civil Rights Act of 1964). Specifically, the CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR §21.5, including employment practices and the selection and retention of Subconsultants.

I. CONSULTANT, subrecipient or subconsultant will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR 26 on the basis of race, color, sex, or national origin. In administering the CITY components of the DBE Program Plan, CONSULTANT, subrecipient or subconsultant will not, directly, or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program Plan with respect to individuals of a particular race, color, sex, or national origin.

ARTICLE XVII – DEBARMENT AND SUSPENSION CERTIFICATION

A. The CONSULTANT's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California, that the CONSULTANT or any person associated therewith in the capacity of owner, partner, director, officer or manager:

1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
2. Has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years;
3. Does not have a proposed debarment pending; and
4. Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

B. Any exceptions to this certification must be disclosed to CITY. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining responsibility. Disclosures must indicate the party to whom the exceptions apply, the initiating agency, and the dates of agency action.

C. Exceptions to the Federal Government excluded parties (https://sam.gov/content/home) maintained by the U.S. General Services Administration are to be determined by FHWA.

☐ ARTICLE XVIII – DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION

A. CONSULTANT, subrecipient (CITY), or subconsultant shall take necessary and reasonable steps to ensure that DBEs have opportunities to participate in the contract (49 CFR 26). To ensure equal participation of DBEs provided in 49 CFR 26.5, The CITY shows a contract goal for DBEs. CONSULTANT shall make work available to DBEs and select work parts consistent with available DBE subconsultants and suppliers.

CONSULTANT shall meet the DBE goal shown elsewhere in these special provisions or demonstrate that they made adequate good faith efforts to meet this goal. It is CONSULTANT's responsibility to verify that the DBE firm is certified as DBE at date of proposal opening and document the record by printing out the California Unified Certification Program (CUCP) data for each DBE firm. A list of DBEs certified by the CUCP can be found here.

All DBE participation will count toward the California Department of Transportation's federally mandated statewide overall DBE goal. Credit for materials or supplies CONSULTANT purchases from DBEs counts towards the goal in the following manner:

- 100 percent counts if the materials or supplies are obtained from a DBE manufacturer.
- 60 percent counts if the materials or supplies are purchased from a DBE regular dealer.
- Only fees, commissions, and charges for assistance in the procurement and delivery of materials or supplies count if obtained from a DBE that is neither a manufacturer nor regular dealer. 49CFR26.55 defines "manufacturer" and "regular dealer."

This AGREEMENT is subject to 49 CFR Part 26 entitled “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs”. Consultants who enter into a federally-funded agreement will assist the CITY in a good faith effort to achieve California's statewide overall DBE goal.

B. The goal for DBE participation for this AGREEMENT is 0%. Participation by DBE CONSULTANT or subconsultants shall be in accordance with information contained in Exhibit 10- O2: Consultant Contract DBE Commitment attached hereto and incorporated as part of the AGREEMENT. If a DBE subconsultant is unable to perform, CONSULTANT must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met.

C. CONSULTANT can meet the DBE participation goal by either documenting commitments to DBEs to meet the AGREEMENT goal, or by documenting adequate good faith efforts to meet the AGREEMENT goal. An adequate good faith effort means that the CONSULTANT must show that it took all necessary and reasonable steps to achieve a DBE goal that, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to meet the DBE goal. If CONSULTANT has not met the DBE goal, complete and submit Exhibit 15-H: DBE Information – Good Faith Efforts to document efforts to meet the goal. Refer to 49 CFR Part 26 for guidance regarding evaluation of good faith efforts to meet the DBE goal.

D. Contract Assurance

Under 49 CFR 26.13(b):

CONSULTANT, subrecipient or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. CONSULTANT shall carry out applicable requirements of 49 CFR 26 in the award and administration of federal-aid contracts.

Failure by the CONSULTANT to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but

is not limited to:

(1) Withholding monthly progress payments;

(2) Assessing sanctions;

(3) Liquidated damages; and/or,

(4) Disqualifying CONSULTANT from future proposing as non-responsible

E. Termination and Substitution of DBE Subconsultants

CONSULTANT shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless CONSULTANT or DBE subconsultant obtains the CITY's written consent. CONSULTANT shall not terminate or substitute a listed DBE for convenience and perform the work with their own forces or obtain materials from other sources without authorization from the CITY. Unless the CITY's consent is provided, the CONSULTANT shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE on the Exhibit 10-02 Consultant Contract DBE Commitment form, included in the Bid.

The CITY authorizes a request to use other forces or sources of materials if CONSULTANT shows any of the following justifications:

1. Listed DBE fails or refuses to execute a written contract based on plans and specifications for the project.
2. The CITY stipulated that a bond is a condition of executing the subcontract and the listed DBE fails to meet the CITY's bond requirements.
3. Work requires a consultant's license and listed DBE does not have a valid license under Contractors License Law.
4. Listed DBE fails or refuses to perform the work or furnish the listed materials (failing or refusing to perform is not an allowable reason to remove a DBE if the failure or refusal is a result of bad faith or discrimination).
5. Listed DBE's work is unsatisfactory and not in compliance with the contract.
6. Listed DBE is ineligible to work on the project because of suspension or debarment.
7. Listed DBE becomes bankrupt or insolvent.
8. Listed DBE voluntarily withdraws with written notice from the Contract
9. Listed DBE is ineligible to receive credit for the type of work required.
10. Listed DBE owner dies or becomes disabled resulting in the inability to perform the work on the Contract.

11. The CITY determines other documented good cause.

CONSULTANT shall notify the original DBE of the intent to use other forces or material sources and provide the reasons and provide the DBE with 5 days to respond to the notice and advise CONSULTANT and the CITY of the reasons why the use of other forces or sources of materials should not occur.

CONSULTANT's request to use other forces or material sources must include:

1. One or more of the reasons listed in the preceding paragraph.
2. Notices from CONSULTANT to the DBE regarding the request.
3. Notices from the DBEs to CONSULTANT regarding the request.

If a listed DBE is terminated or substituted, CONSULTANT must make good faith efforts to find another DBE to substitute for the original DBE. The substitute DBE must perform at least the same amount of work as the original DBE under the contract to the extent needed to meet or exceed the DBE goal.

F. Commitment and Utilization

The CITY's DBE program must include a monitoring and enforcement mechanism to ensure that DBE commitments reconcile to DBE utilization.

The CITY shall request CONSULTANT to:

1. Notify the CITY's contract administrator or designated representative of any changes to its anticipated DBE participation
2. Provide this notification before starting the affected work
3. Maintain records including:
   - Name and business address of each 1st-tier subconsultant
   - Name and business address of each DBE subconsultant, DBE vendor, and DBE trucking company, regardless of tier
   - Date of payment and total amount paid to each business (see Exhibit 9-F *Monthly Disadvantaged Business Enterprise Payment*)

If CONSULTANT is a DBE CONSULTANT, they shall include the date of work performed by their own forces and the corresponding value of the work.

If a DBE is decertified before completing its work, the DBE must notify CONSULTANT in writing of the decertification date. If a business becomes a certified DBE before completing its work, the business must notify CONSULTANT in writing of the certification date. CONSULTANT shall submit the notifications to the CITY. On work completion, CONSULTANT shall complete a Disadvantaged

Business Enterprises (DBE) Certification Status Change, Exhibit 17-O, form and submit the form to the CITY within 30 days of contract acceptance.

Upon work completion, CONSULTANT shall complete Exhibit 17-F Final Report – Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors and submit it to the CITY within 90 days of contract acceptance. The CITY will withhold $10,000 until the form is submitted. The CITY will release the withhold upon submission of the completed form.

In the CITY's reports of DBE participation to Caltrans, the CITY must display both commitments and attainments.

G. A DBE is only eligible to be counted toward the AGREEMENT goal if it performs a commercially useful function (CUF) on the AGREEMENT. CUF must be evaluated on an agreement by agreement basis. A DBE performs a Commercially Useful Function (CUF) when it is responsible for execution of the work of the AGREEMENT and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible, with respect to materials and supplies used on the AGREEMENT, for negotiating price, determining quality and quantity, ordering the material and installing (where applicable), and paying for the material itself. To determine whether a DBE is performing a CUF, evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the AGREEMENT is commensurate with the work it is actually performing, and other relevant factors.

H. A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, AGREEMENT, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.

I. If a DBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its AGREEMENT with its own work force, or the DBE subcontracts a greater portion of the work of the AGREEMENT than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a CUF.

J. CONSULTANT shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each

DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE CONSULTANT's shall also show the date of work performed by their own forces along with the corresponding dollar value of the

work.

K. If a DBE subconsultant is decertified during the life of the AGREEMENT, the decertified subconsultant shall notify CONSULTANT in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the AGREEMENT, the subconsultant shall notify CONSULTANT in writing with the date of certification. Any changes should be reported to CITY's Contract Administrator within thirty (30) calendar days.

L. After submitting an invoice for reimbursement that includes a payment to a DBE, but no later than the 10th of the following month, the prime contractor/consultant shall complete and email the Exhibit 9- F: Disadvantaged Business Enterprise Running Tally of Payments to business.support.unit@dot.ca.gov with a copy to the Agency.

M. Any subcontract entered into as a result of this AGREEMENT shall contain all of the provisions of this section.

ARTICLE XIX – INSURANCE

See Section 26 of the Agreement.

ARTICLE XX – FUNDING REQUIREMENTS

A. It is mutually understood between the parties that this AGREEMENT may have been written before ascertaining the availability of funds or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if the AGREEMENT were executed after that determination was made.

B. This AGREEMENT is valid and enforceable only if sufficient funds are made available to CITY for the purpose of this AGREEMENT. In addition, this AGREEMENT is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress, State Legislature, or CITY governing board that may affect the provisions, terms, or funding of this AGREEMENT in any manner.

C. It is mutually agreed that if sufficient funds are not appropriated, this AGREEMENT may be amended to reflect any reduction in funds.

D. CITY has the option to terminate the AGREEMENT pursuant to Article VI Termination, or by mutual agreement to amend the AGREEMENT to reflect any reduction of funds.

ARTICLE XXI – CHANGE IN TERMS

See Section 14 of the Agreement.

ARTICLE XXII – CONTINGENCY FEE

CONSULTANT warrants, by execution of this AGREEMENT that no person or selling agency has been employed, or retained, to solicit or secure this AGREEMENT upon an agreement or understanding, for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees, or bona fide established commercial or selling agencies maintained by CONSULTANT for the purpose of securing business. For breach or violation of this warranty, CITY has the right to annul this AGREEMENT without liability; pay only for the value of the work actually performed, or in its discretion to deduct from the AGREEMENT price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

ARTICLE XXIII - DISPUTES

See Sections 32 and 33 of the Agreement.

ARTICLE XXIV - INSPECTION OF WORK

CONSULTANT and any subconsultant shall permit CITY, the State, and the FHWA if federal participating funds are used in this AGREEMENT; to review and inspect the project activities and files at all reasonable times during the performance period of this AGREEMENT.

ARTICLE XXV – SAFETY

A. CONSULTANT shall comply with OSHA regulations applicable to CONSULTANT regarding necessary safety equipment or procedures. CONSULTANT shall comply with safety instructions issued by CITY Safety Officer and other CITY representatives. CONSULTANT personnel shall wear hard hats and safety vests at all times while working on the construction project site.

B. Pursuant to the authority contained in Vehicle Code §591, CITY has determined that such areas are within the limits of the project and are open to public traffic. CONSULTANT shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. CONSULTANT shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.

C. CONSULTANT must have a Division of Occupational Safety and Health (CAL-OSHA) permit(s), as outlined in Labor Code §6500 and §6705, prior to the initiation of any practices, work, method, operation, or process related to the construction or excavation of trenches which are five (5) feet or deeper.

ARTICLE XXVI - OWNERSHIP OF DATA

A. It is mutually agreed that all materials prepared by CONSULTANT under this AGREEMENT shall become the property of City, and CONSULTANT shall have no property right therein whatsoever. Immediately upon termination, City shall be entitled to, and CONSULTANT shall deliver to City, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not, and other such materials as may have been prepared or accumulated to date by CONSULTANT in performing this AGREEMENT which is not CONSULTANT's privileged information, as defined by law, or CONSULTANT's personnel information, along with all other property belonging exclusively to City which is in CONSULTANT's possession. Publication of the information derived from work performed or data obtained in connection with services rendered under this AGREEMENT must be approved in writing by City.

B. Additionally, it is agreed that the Parties intend this to be an AGREEMENT for services and each considers the products and results of the services to be rendered by CONSULTANT hereunder to be work made for hire. CONSULTANT acknowledges and agrees that the work (and all rights therein, including, without limitation, copyright) belongs to and shall be the sole and exclusive property of City without restriction or limitation upon its use or dissemination by City.

C. Nothing herein shall constitute or be construed to be any representation by CONSULTANT that the work product is suitable in any way for any other project except the one detailed in this Contract. Any reuse by City for another project or project location shall be at City's sole risk.

D. Applicable patent rights provisions regarding rights to inventions shall be included in the contracts as appropriate (48 CFR 27 Subpart 27.3 - Patent Rights under Government Contracts for federal aid contracts).

E. CITY may permit copyrighting reports or other agreement products. If copyrights are permitted; the AGREEMENT shall provide that the FHWA shall have the royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use; and to authorize others to use, the work for government purposes.

ARTICLE XXVII – CLAIMS FILED BY CITY'S CONSTRUCTION CONTRACTOR

Not Applicable to this Professional Service Agreement

ARTICLE XXVIII – CONFIDENTIALITY OF DATA

A. All financial, statistical, personal, technical, or other data and information relative to LOCAL AGENCY's operations, which are designated confidential by CITY and

made available to CONSULTANT in order to carry out this AGREEMENT, shall be protected by CONSULTANT from unauthorized use and disclosure.

B. Permission to disclose information on one occasion, or public hearing held by CITY relating to the AGREEMENT, shall not authorize CONSULTANT to further disclose such information, or disseminate the same on any other occasion.

C. CONSULTANT shall not comment publicly to the press or any other media regarding the AGREEMENT or CITY's actions on the same, except to CITY's staff, CONSULTANT's own personnel involved in the performance of this AGREEMENT, at public hearings, or in response to questions from a Legislative committee.

D. CONSULTANT shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this AGREEMENT without prior review of the contents thereof by CITY, and receipt of CITY'S written permission.

E. Any subcontract entered into as a result of this contract shall contain all of the provisions of this Article.

F. All information related to the construction estimate is confidential, and shall not be disclosed by CONSULTANT to any entity, other than CITY, Caltrans, and/or FHWA. All of the materials prepared or assembled by CONSULTANT pursuant to performance of this Contract are confidential and CONSULTANT agrees that they shall not be made available to any individual or organization without the prior written approval of City or except by court order. If CONSULTANT or any of its officers, employees, or subcontractors does voluntarily provide information in violation of this Contract, City has the right to reimbursement and indemnity from CONSULTANT for any damages caused by CONSULTANT releasing the information, including, but not limited to, City's attorney's fees and disbursements, including without limitation experts' fees and disbursements.

G. This Article's requirements are in addition to those stated in Section 19.5 and 19.6 of the Agreement. In the event of a conflict this Article controls.

ARTICLE XXIX – NATIONAL LABOR RELATIONS BOARD CERTIFICATION

In accordance with Public Contract Code §10296, CONSULTANT hereby states under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against CONSULTANT within the immediately preceding two-year period, because of CONSULTANT's failure to comply with an order of a federal court that orders CONSULTANT to comply with an order of the National Labor Relations Board.

ARTICLE XXX - EVALUATION OF CONSULTANT

CONSULTANT's performance will be evaluated by CITY. A copy of the

evaluation will be sent to CONSULTANT for comments. The evaluation together with the comments shall be retained as part of the AGREEMENT record.

ARTICLE XXXI - PROMPT PAYMENT FROM THE CITY TO CONSULTANT

The CITY shall make any progress payment within 30 days after receipt of an undisputed and properly submitted payment request from CONSULTANT on a professional service contract. If the CITY fails to pay promptly, the CITY shall pay interest to the contractor, which accrues at the rate of 10 percent per annum on the principal amount of a money judgment remaining unsatisfied. Upon receipt of a payment request, the CITY shall act in accordance with both of the following:

1. Each payment request shall be reviewed by the CITY as soon as practicable after receipt for the purpose of determining that the payment request is a proper payment request.
2. Any payment request determined not to be a proper payment request suitable for payment shall be returned to CONSULTANT as soon as practicable, but not later than seven (7) days, after receipt. A request returned pursuant to this paragraph shall be accompanied by a document setting forth in writing the reasons why the payment request is not proper.

EXHIBIT F

PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Fehr & Peers)

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 $19.51 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 $19.51 per hour for each hour that such employee provides Services under this Agreement. This hourly rate shall be adjusted on July 1, 2025, and each July 1 thereafter, according to the percentage change in the Consumer Price Index, all items, prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers (CPI-U), index base 1982-84=100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, Consultant shall provide to such employee no less than 96 hours of paid leave per calendar year.

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

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

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

EXHIBIT G

PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Fehr & Peers)

IRAN CONTRACTING CERTIFICATION

IRAN CONTRACTING ACT CERTIFICATION
(TO BE EXECUTED AND SUBMITTED WITH THE AGREEMENT)
Public Contract Code Sections 2202-2208

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

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

OPTION No.1 – CERTIFICATION
I, the official named below, certify I am duly authorized to execute this certification on behalf of the company/entityidentified below, and the company/entity identified below is not on the current list of persons engaged in investment activities in Iran created by DGS and is not a financial institution extending twenty million dollars ($20,000,000) or more in credit to another person or entity, for 45 days or more, if that other person or company/entity will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engagedin investment activities in Iran created by DGS in accordance with subdivision (b) of Public Contract Code 2203.

Company Name/Financial Institution (printed): _____ Federal ID Number (or n/a): _____

By (Authorized Signature): _____

Printed Name & Title of Person Signing: _____ Date Executed _____

Executed in the County of_____ in the State of _____

OPTION No.2 – EXEMPTION
Pursuant to Public Contract Code sections 2203(c) and (d), a public entity may permit a vendor/financial institutionengaged in investment activities in Iran, on a case-by-case basis, to be eligible for, or to bid on, submit a proposal for, or enters into or renews, a contract for goods and services. If you have obtained an exemption from the certification requirement under the Iran Contracting Act, please fill out the information below and attach documentation demonstrating the exemption approval.

Company Name/Financial Institution (printed): _____ Federal ID Number (or n/a): _____

By (Authorized Signature): _____

Printed Name & Title of Person Signing: _____ Date Executed _____

Executed in the County of_____ in the State of _____

PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF OXNARD AND LSY ENTERPRISE, INC.

By This Professional Services Agreement ("Agreement"), the City of Oxnard ("City") agrees to engage the Services of LSY Enterprise, Inc., ("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."

RECITALS

WHEREAS, this Agreement is entered into as a result of the Restricted Grant Agreement ("RGA") entered into between the City and the Department of Transportation (Caltrans) attached to this Agreement as Exhibit D and incorporated herein by this reference for General Project Engineering Services; and

WHEREAS, per item 24c. in the RGA, Consultant shall adhere to any and all sections, items, attachments, and amendments of the RGA in additional to the terms of this Agreement and Exhibit E (grant funding requirements); and

WHEREAS, in the event of any conflict between the terms of this Agreement and Exhibits D and E and any attachments, or amendments thereto, the terms of the RGA (exhibit D) and grant funding requirements (exhibit E) shall control; and

WHEREAS, Consultant represents that it is fully qualified and licensed to perform the consulting and/or professional Services required for performance under this Agreement by virtue of its experience and the training, education, and expertise of its principals and its employees; and

WHEREAS, the specific services required under this Agreement will be requested on an as needed basis not all requested services under this agreement will be grant funded, therefore the provisions of Exhibits D & E shall apply to services that the city representative designates as grant funded; and

WHEREAS, in light of the facts set forth above, the City desires to retain Consultant to provide General Traffic Engineering Services on an independent contractor basis in accordance with the terms and provisions set forth in this Agreement.

NOW THEREFORE, IN CONSIDERATION OF THE COVENANTS, CONDITIONS, AND PROMISES CONTAINED HEREIN AND FOR SUCH OTHER GOOD AND

VALUABLE CONSIDERATION, RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED, THE PARTIES HERETO AGREE AS FOLLOWS:

1. The Recitals set forth above are true and correct and together with any definitions set forth therein are hereby incorporated into this Agreement by this reference, as though set forth fully herein.

2. SUMMARY DESCRIPTION OF SERVICES.
General traffic engineering services.

This Agreement is to provide the City with services that a Traffic Engineer would perform, which may include general professional traffic engineering services. Certain services performed will be will be grant funded and Consultant shall comply with the terms and conditions stated in the RGA identified in Exhibits D and E.

3. PARTIES.

City of Oxnard, a general law and municipal corporation of the State of California, located at 300 West Third Street, Oxnard California 93030.

LSY Enterprise, Inc., a corporation/LLC/LLP of the State of California, located at 26032 Laguna Court, Valencia, CA 91355.

4. TERM OF AGREEMENT: From: December 4, 2024 To: December 3, 2027

A. Time is of the essence in this Agreement
B. The City shall have the option to exercise (2) consecutive (1) one-year term extensions, in accordance with the scope of work and terms and conditions of this Agreement. Any price negotiations, if allowed, shall be negotiated at the time of contract extension.
C. This Agreement shall not exceed a total of five (5) years (including the initial term and any options to extend). The City in its sole discretion may exercise the option terms upon sixty (60) days written notice to the Consultant (or any other time if the parties so agree) in accordance with Section 12 of this Agreement. The option term shall be commenced by an amendment to this agreement.
D. All Services required of Consultant under this Agreement shall be completed on or before the end of the term of the Agreement.

5. AGREEMENT AMOUNT NOT TO EXCEED: $1,500,000.

6. **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-A
   Exhibit D: Restricted Grant Agreement
   Exhibit E: Living Wage Policy
   Exhibit F: Iran Contracting Certification

7. **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: Debbie O'Leary Title: Transportation Planner Phone: (805) 200-5283 Email: Debbie.Oleary@oxnard.org Address: 305 W. Third St., 3rd Floor, Oxnard, CA 93030	Name: Andrew Yi Title: Project Manager Phone: (661) 510-0504 Email: andrewyi@lsy-enterprise.com Address: 26032 Laguna Court, Valencia, CA 91355

8. **CONTRACTUAL PREREQUISITES.** 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.

   A. Consultant is advised that any recommendation for Agreement award is not binding on City until the Agreement is fully executed and approved by City.
   B. 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.
   C. All proof of a City tax certificate, insurance, and W-9 forms is required prior to execution of this Agreement.

D. 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.

9. **CONSULTANT'S SERVICES.**

A. 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 13 of this Agreement.
B. 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.

10. **COMPENSATION.** City shall pay Consultant for the Services performed pursuant to the terms of this Agreement and the "Schedule of Compensation," attached to and incorporated into this Agreement as "Exhibit B." City shall pay Consultant an amount not to exceed the amount is listed in Section 5 of this Agreement. Once this Agreement is executed, the Schedule of Compensation may only be modified by written Amendment pursuant to Section 13 of this Agreement, and may be subject to approval by the City Council.

11. **PAYMENT and 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 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.

A. 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: **pwengineeringap@oxnard.org**.
B. 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.

C. 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.

D. **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.

12. **OPTION TO EXTEND AGREEMENT.** When in the City's best interest, this Agreement may only be extended, if the City, in its discretion, exercises an option term in accordance with Section 4 subparagraphs (B) and (C) of this 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 4(B), then this Agreement shall not be extended.**

13. **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. The City may request that the Consultant perform Extra Services. As used herein, "Extra Services" means any services, which are determined by the City to be necessary for the proper completion of the project, but which the Parties did not reasonably anticipate would be necessary at the execution of this Agreement. A written amendment signed by both Parties shall be required to authorize performance of and payment for Extra Services.

14. **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 22 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.

15. **CALTRANS GRANT FUNDING REQUIREMENTS.** The Request for Proposal for this Agreement included a Section that placed Consultant on Notice that the Agreement and associated Scope of Work is being funded in whole or in part grant funds in accordance with a Restricted Grant Agreement between the City of Oxnard and the California Department of Transportation. A Federal & State Funding Requirements Addendum for CalTrans Projects is attached in its entirety as Exhibit E and incorporated herein by this reference. Consultant herein agrees to and shall comply with all requirements and provisions of Exhibit E. To the extent there is a conflict in the terms of this Agreement and the terms in Exhibit E, the terms in Exhibit E shall control.

16. **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, subconsultants, 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 T 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, subconsultants, or employees are in any manner agents, subconsultants, or employees of City.

17. **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.

18. **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.

19. **STANDARD OF PERFORMANCE; WARRANTY.** Consultant agrees to perform all Services required by this Agreement in a professional and competent manner, in accordance with the degree of skill and diligence which is normally employed by reputable professionals performing similar Services under similar conditions in the same or similar locality. Such Services shall also be performed in a manner which is reasonably satisfactory to City Project Manager, or designee (hereinafter the "Project Manager"), provided that discretion in determining what is satisfactory shall not alter the foregoing standard of care.

    A. In accordance with the standard of care set forth in the first sentence of Section 19, the Consultant agrees that it:
    (1) Has thoroughly reviewed and considered the services and work to be performed; and
    (2) Has reviewed the issues regarding the Scope of Services to be provided; and

(3) Has carefully considered how the services and related work should be performed; and
(4) Fully understands the facilities, difficulties and restrictions associated with performance of the services required by this Agreement.

20. **OWNERSHIP OF CONSULTANT'S WORK PRODUCT, CONFIDENTIALITY & DISCLOSURE, RECORDS & WARRANTY.** 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.
    A. 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.
    B. 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.
    C. Records and Inspections**.** The Consultant shall maintain full and accurate records, with respect to all Services and matters covered under this Agreement. Books and records pertaining to costs shall be kept and prepared in accordance with generally accepted accounting principles. 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.
    D. 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

7920.505) and may contain “trade secrets” (see Government Code Section 7924.510(f)) 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 7920.515.

E. 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.

F. 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.

21. **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.

22. **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 7. 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.

23. **INDEMNIFICATION, HOLD HARMLESS & DEFENSE.** Except as set forth in Subsection b of this Section 23, and to the fullest extent permitted by law, Consultant shall immediately defend, indemnify, and hold harmless the City, its officers, employees, representatives, and agents (the "City Indemnitees"), from and against those actions, suits, proceedings, claims, demands, losses, costs, and expenses, including legal costs and reasonable attorneys' fees, for any personal injuries, deaths, or property damage, including property owned by the City (collectively "Claims") which may arise out of Consultant's negligence or willful misconduct in the performance of the services described in this Agreement, unless such Claims are proven to be caused by the negligence or willful misconduct of the City Indemnitees.

A. The provisions of this Subsection b 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.

   (1) Notwithstanding the provisions of Section 23 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 City 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.

   (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 b shall be construed to require Consultant to provide indemnification for Claims caused by the active negligence or willful misconduct of the City Indemnitees

B. The City does not and shall not waive any rights that it may have against Consultant under this Section, because of the acceptance by the City, or the deposit with the City, of any insurance policy or certificate required pursuant to this Agreement. The hold harmless and indemnification provisions of this Section 23 shall apply regardless of whether said

insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost, or expense described herein.

C. The obligation to indemnify and defend, as set forth in this Section 23, is binding on the successors, assigns, or heirs of Consultant and shall survive the expiration or any early termination of this Agreement.

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 F" 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 Living Wage is updated on July 1 of each year, and the duty to pay the correct wage is the responsibility of the Consultant.

26. **INTENTIONALLY OMITTED**

27. **IRAN CONTRACTING ACT.** In accordance with the Iran Contract Act of 2010 (Public Contract Code sections 2200-2208) the City requires that any Consultant that submits a proposal or otherwise proposes to enter into or renew a contract with the City with respect to goods or Services of one million dollars ($1,000,000) or more, must certify, that the Consultant is not identified on a list created pursuant to subdivision (b) of Public Contract Code Section 2203 as a person engaging in investment activities in Iran described in subdivision (a) of Public Contract Code Section 2202.5, or as a person described in subdivision (b) of Public Contract Code Section 2202.5, as applicable.

A Consultant is ineligible to enter into any contract with the City for goods or Services of one million dollars ($1,000,000) or more if the Consultant engages in

investment activities in Iran. Consultant must certify that it is not on the list of ineligible vendors prohibited from doing business with the State of California and shall complete the Iran Contract Act Certification attached as Exhibit H.

28. **SUBCONTRACTING.** If Consultant requires the assistance of a subcontractor to render any Services under this Agreement, Consultant shall obtain prior written consent from the City before a subcontractor performs any service pursuant to this Agreement. All subcontractors shall be identified in the Scope of Work attached to this Agreement as “Exhibit A”. Consultant is fully responsible for satisfactory completion of all its subcontractors’ work. All subcontractors shall be properly licensed and insured; and bonded, if applicable. Consultant shall be responsible for all liabilities regardless of nature, type, or cause, arising out of or resulting from or in connection with subcontractors performance pursuant to this Agreement or subcontractors failure to comply with any of its obligations in connection with this Agreement.

29. **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.

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. **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.

33. **CARE OF WORK.** Should Consultant discover any latent or unknown conditions materially differing from those inherent in the Services or as represented by the City, Consultant shall immediately inform the City of such fact and shall not provide any Services, except at Consultant’s risk, until written instructions are received from the Project Manager.

34. **REPORTS.** Upon request by the Project Manager or as otherwise required by this Agreement, including but not limited to, the Scope of Services set forth in Exhibit “A”, Consultant shall prepare and submit reports to the City concerning Consultant's performance of the Services required by this Agreement.

35. **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.

36. **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.

37. **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.

38. **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.

39. **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 the 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.

40. **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.

41. **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.
42. **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.

43. **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 insure to the benefit of the Parties to this Agreement and any subsequent successors and assigns.

44. **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.

45. **AUTHORITY TO EXECUTE.** Each Party hereto expressly warrants and represents that the signatories to this Agreement have the authority to execute this Agreement on behalf of its corporation, partnership, business entity, or governmental entity, and warrants and represents that the signatories have the authority to bind each Party to the performance of its obligations hereunder.

46. **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 or electronic 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.

47. **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 and 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.

48. **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.
49. **ACKNOWLEDGEMENT.** By signing below, Consultant acknowledges that it has reviewed the City's 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 4 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)

LSY ENTERPRISE, INC.

Andrew Yi, Principal Date

Ellen Yi, Date
Chief Financial Officer, [3]

[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

PROFESSIONAL SERVICE AGREEMENT
(CITY of Oxnard and LSY Enterprise, Inc.)

SCOPE OF SERVICES

PROJECT MANAGER: Debbie O'Leary/ 805-200-5283/ Debbie.Oleary@oxnard.org

Licensing and Professional Certification

Required:

1. California registered Civil Engineer and/or Traffic Engineer.

Scope of Services:

The following list includes anticipated tasks associated with this RFP, **generally providing routine traffic engineering**. Work will involve assisting with capital improvement and special projects. This list is not all inclusive.

1. Traffic calming conceptual planning and designs, including all-way stop, traffic signal warrant studies, circulation improvements, parking studies, neighborhood management plans, etc.
2. Traffic data collection including multi-modal traffic volumes, speed, origin-destination surveys, travel time and delays, parking utilization, etc.
3. Traffic speed survey analysis and engineering for establishing and updating speed limits
4. Traffic control design and plan review
5. Traffic feasibility studies and analysis for projects such as roundabouts, traffic circles, Class I and IV bike lanes, traffic signal improvements, etc.
6. Traffic design, preparing plans, specifications, and estimates for circulation improvement projects, including bicycle, pedestrian, roadway configuration, etc.
7. Traffic management plans and field support for special events or projects
8. Traffic signal design and plan review
9. Traffic signal timing and coordination
10. Traffic signal equipment upgrade and maintenance recommendations
11. Traffic signal technical support including trouble-shooting traffic management center software, equipment, systems design, etc.
12. Traffic signal intelligent transportation system evaluation and implementation
13. Traffic collision data review and evaluation
14. Traffic engineering development of transportation policies, guidelines, and updates

15. Traffic engineering grant writing for federal, state, and regional funding programs
16. Traffic impact fee establishment and updates
17. Traffic engineering plan check review for private land development projects, including review of site plans, public improvements, traffic impact analysis, transportation modeling, etc., from initial submittal, providing written comments to the City, attending meetings with the City and private developer's engineer, and final recommendation
18. Prepare and deliver presentations to the City Council, Public Works Transportation Committee, Planning Commission, and others

2.0 QUALIFICATIONS AND PROFESSIONAL REQUIREMENTS

The services and abilities required to successfully perform general traffic engineering services include, but are not limited to:

1. Traffic engineering work shall be performed by a California registered Civil Engineer and/or Traffic Engineer.
2. Understanding and application of Federal, State and City Engineering Standards, to include but not be not limited to: Institute of Transportation Engineers (ITE) Trip and Parking Generation Manuals, California Manual on Uniform Traffic Control Devices (CA MUTCD), National Association of City Transportation Officials (NACTO), CA Standard Plans and Specifications, City of Oxnard zoning ordinance and General Plan, beside others.
3. Knowledge and understanding of the use of and requirements of federal and state documentation associated with grant funded projects.
4. Understanding and application of relevant operational and traffic analyses and modeling software such as Synchro, SIDRA, and Travel Demand Modeling such as Visum, TransCad, CUBE and EMME2.
5. Understanding of environmental regulations relevant to the transportation system.
6. Understanding and ability to review civil improvement plans for compliance with disabled access requirements, circulation impacts or improvements, application of State and local laws, ordinances, and the City's Municipal Code.

7. Compliance with applicable prevailing wages as determined by California Department of Industrial Relations and Federal, State and local laws.
8. Minimum of 5 years' experience providing Traffic Engineering services to municipalities of similar size or sufficient experience in transportation planning and traffic engineering. Specifically, experience should include but not be limited to: traffic safety studies, traffic operational studies, warrant analysis, traffic signal operations, conceptual roadway and intersection designs, data collection, traffic modeling and travel demand modeling.
9. Experience or knowledge of City of Oxnard local issues and ability to perform local site visits as needed and/or requested by the Traffic Engineering Division.

EXHIBIT B

PROFESSIONAL SERVICE AGREEMENT
(CITY of Oxnard and LSY Enterprise, Inc.)

SCHEDULE OF COMPENSATION

LSY Enterprise Standard Billing Rates (as of January 1, 2023)

LSY Enterprise standard billing rates are displayed below based on classifications.

Classification	Hourly Billing Rate
Principal-in-Charge	$215.00
Project Manager	$195.00
Traffic/Civil Engineer	$195.00
Traffic Signal Engineer	$170.00
Transportation Planner	$170.00
Engineer II	$155.00
Engineer I	$140.00
Engineering Technician	$115.00
Analyst	$110.00
Administration	$90.00
Overtime, Night, Holiday & Weekend Work	130% of the rates listed above
Mileage	Based on standard federal rates

Billing rates are subject to change annually based on the Cost-of-Living index, not to exceed 5% per year.

Invoices are payable within 30 days of receipt. The City of Oxnard must notify LSY Enterprise, Inc.'s Project Manager, in writing, within 30 days of receipt of any disputed charges in an invoice. Interest at the rate of 1.5 percent per month, or alternatively at the highest monthly rate allowable in the jurisdiction where the Services are being provided, whichever is higher, will be charged on all past due amounts.

EXHIBIT C
PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and LSY Enterprise, Inc.)
INSURANCE REQUIREMENTS

INSURANCE REQUIREMENTS FOR CONSULTANTS (WITH ERRORS AND OMISSIONS REQUIREMENT)

1. Consultant shall obtain and maintain during the performance of any services under this Agreement the following insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of services hereunder by Consultant, its agents, representatives, employees or subconsultants.

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

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

c. Professional liability/errors and omissions insurance appropriate to Consultant's profession to a minimum coverage of $1,000,000, with neither Consultant nor listed subconsultants having less than $500,000 individually. The professional liability/errors and omissions insurance must be project specific with at least a one year extended reporting period, or longer upon request.

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

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

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

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

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

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

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

1/23

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

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

Endorsement Forms

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

INS-A.doc

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER

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

CODE SUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY LETTER A SPECIFY COMPANY NAMES IN THIS SPACE

COMPANY LETTER B

COVERAGES

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

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

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

CERTIFICATE HOLDER

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

CANCELLATION

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

AUTHORIZED REPRESENTATIVE

Rev. 1/23 INS-A.doc

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

SUBMIT IN DUPLICATE

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

PRODUCER

Telephone:

NAMED INSURED

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

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

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

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

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

OTHER PROVISIONS

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

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

Name: _____
Address: _____
_____
Telephone: (_____) _____

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

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

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

ENDORSEMENT HOLDER

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

AUTHORIZED REPRESENTATIVE

❒ Broker/Agent ❒ Underwriter ❒ _____

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

Signature _____
(original signature required)
Telephone: (____) _____ Date Signed: _____

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

SUBMIT IN DUPLICATE

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

PRODUCER

Telephone:

NAMED INSURED

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

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

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

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

❒ COMMERCIAL AUTO POLICY
❒ BUSINESS AUTO POLICY
❒ OTHER

OTHER PROVISIONS

LIMIT OF LIABILITY

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

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

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

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

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

ENDORSEMENT HOLDER

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

AUTHORIZED REPRESENTATIVE

❒ Broker/Agent ❒ Underwriter ❒ _____

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

Signature _____
(original signature required)

Telephone: ( ) Date Signed _____

EXHIBIT D
PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and LSY Enterprise, Inc.)
RESTRICTED GRANT AGREEMENT

MASTER AGREEMENT
ADMINISTERING AGENCY-STATE AGREEMENT FOR
STATE-FUNDED PROJECTS

07 City of Oxnard

District Administering Agency

Agreement No. 07-5129S21

This AGREEMENT, is entered into effective this 1st day of March, 2022, by and between the City of Oxnard, hereinafter referred to as "ADMINISTERING AGENCY," and the State of California, acting by and through its Department of Transportation (Caltrans), hereinafter referred to as "STATE", and together referred to as "PARTIES" or individually as a "PARTY."

RECITALS:

1. WHEREAS, the Legislature of the State of California has enacted legislation by which certain State funds are made available for use on local transportation related projects of public entities qualified to act as recipients of these state funds; and

2. WHEREAS, ADMINISTERING AGENCY has applied to the California Transportation Commission (CTC) and/or STATE for funding from a State-funded program (herein referred to as STATE FUNDS), as defined in the Local Assistance Program Guidelines (LAPG) and/or in the respective CTC Guidelines, for use on local authorized transportation related projects as a local administered project(s), hereinafter referred to as "PROJECT"; and

3. WHEREAS, said PROJECT will not receive any federal funds; and

4. WHEREAS, before STATE FUNDS will be made available for PROJECT, ADMINISTERING AGENCY and STATE are required to enter into an agreement to establish terms and conditions applicable to the ADMINISTERING AGENCY when receiving STATE FUNDS for a designated PROJECT facility and to the subsequent operation and maintenance of that completed facility.

NOW, THEREFORE, the PARTIES agree as follows:

COUNCIL APPROVED
03-01-2022 I3(1)
DATE

ARTICLE I - PROJECT ADMINISTRATION

1. This AGREEMENT shall have no force or effect with respect to any program project unless and until a project- specific Program Supplement to this AGREEMENT for state funded projects, hereinafter referred to as "PROGRAM SUPPLEMENT", has been fully executed by both STATE and ADMINISTERING AGENCY.

2. The State approved project-specific allocation notification letter and approved CTC allocation documentation designate the party responsible for implementing PROJECT, type of work, and location of PROJECT for projects requiring CTC allocation by PROJECT component of work.

3. The PROGRAM SUPPLEMENT sets out special covenants as a condition for the ADMINISTERING AGENCY to receive STATE FUNDS from/through STATE for designated PROJECT. The PROGRAM SUPPLEMENT shall also show these STATE FUNDS that have been initially encumbered for PROJECT along with the matching funds to be provided by ADMINISTERING AGENCY and/or others. Execution of PROGRAM SUPPLEMENT by the PARTIES shall cause ADMINISTERING AGENCY to adopt all the terms of this AGREEMENT as though fully set forth therein in the PROGRAM SUPPLEMENT. Unless otherwise expressly delegated in a resolution by the governing body of ADMINISTERING AGENCY, and with written concurrence by STATE, the PROGRAM SUPPLEMENT shall be approved and managed by the governing body of ADMINISTERING AGENCY.

4. ADMINISTERING AGENCY agrees to execute and return each project-specific PROGRAM SUPPLEMENT. The PARTIES agree that STATE may suspend future allocations, encumbrances and invoice payments for any on- going or future STATE FUNDED PROJECT performed by ADMINISTERING AGENCY if any project-specific PROGRAM SUPPLEMENT is not returned, unless otherwise agreed by STATE in writing.

5. ADMINISTERING AGENCY further agrees, as a condition to the release and payment of STATE FUNDS encumbered for the PROJECT described in each PROGRAM SUPPLEMENT, to comply with the terms and conditions of this AGREEMENT and all the agreed-upon Special Covenants or Remarks incorporated within the PROGRAM SUPPLEMENT, and Cooperative/Contribution Agreement where appropriate, defining and identifying the nature of the specific PROJECT.

6. STATE FUNDS will not participate in any portion of PROJECT work performed in advance of the effective date of allocation by CTC, or by STATE for allocations delegated to STATE by CTC, for said PROJECT.

7. Projects allocated with STATE FUNDS will be administered in accordance with the current CTC STIP Guidelines, applicable chapter(s) of the LAPG, LAPM and/or any other instructions published by STATE.

8. ADMINISTERING AGENCY agrees to ensure compliance with all relevant State laws and requirements for work related to PROJECT, including the California Environmental Quality Act (CEQA).

9. ADMINISTERING AGENCY's eligible costs for preliminary engineering work includes all preliminary work directly related to PROJECT up to contract award for construction, including, but not limited to, environmental studies and permits (E&P), preliminary surveys and reports, laboratory work, soil investigations, the preparation of plans, specifications and estimates (PS&E), advertising for bids, awarding of a contract and project development contract administration.

10. ADMINISTERING AGENCY's eligible costs for construction engineering include actual inspection and supervision of PROJECT construction work; construction staking; laboratory and field testing; and the preparation and processing of field reports, records, estimates, final reports, and allowable expenses of employees/consultants engaged in such activities.

11. Unless the PARTIES agree otherwise in writing, ADMINISTERING AGENCY's employees or its contracted engineering consultant shall be responsible for all PROJECT engineering work.

12. ADMINISTERING AGENCY shall not proceed with final design of PROJECT until final environmental approval of PROJECT. Final design entails the design work necessary to complete the PS&E and other work necessary for a construction contract but not required earlier for environmental clearance of that PROJECT.

13. If PROJECT is not on STATE-owned right-of-way, PROJECT shall be constructed in accordance with Chapter 11 of the LAPM that describes minimum statewide design standards for local agency streets and roads. The design standards for projects off the National Highway System (NHS) allow STATE to accept either the current Caltrans Highway Design Manual standards, the current FHWA-adopted American Association of State Highway and Transportation Officials (AASHTO) A Policy on Geometric Design of Highways and Streets standards, or the approved geometric design standards of ADMINISTERING AGENCY. Additionally, for projects off the NHS, STATE will accept ADMINISTERING AGENCY-approved standard specifications, standard plans, materials sampling and testing quality assurance programs that meet the conditions described in the then current Local Assistance Procedures Manual.

14. If PROJECT involves work within or partially within STATE-owned right-of-way, that PROJECT shall also be subject to compliance with the policies, procedures and standards of the STATE Project Development Procedures Manual and Highway Design Manual and where appropriate, an executed cooperative agreement between STATE and ADMINISTERING AGENCY that outlines the PROJECT responsibilities and respective obligations of the PARTIES. ADMINISTERING AGENCY and its contractors shall each obtain an encroachment permit through STATE prior to commencing any work within STATE rights-of-way or work which affects STATE facilities.

15. When PROJECT is not on the State Highway System (SHS) but includes work to be performed by a railroad, the contract for such work shall be prepared by ADMINISTERING AGENCY or by STATE, as the PARTIES may hereafter agree. In either event, ADMINISTERING AGENCY shall enter into an agreement with the railroad providing for future maintenance of protective devices or other facilities installed under the contract.

16. ADMINISTERING AGENCY shall comply with the provisions of sections 4450 and 4454 of the California Government Code, as well as other Department of General Services guidance, if applicable, for the contract PS&E for the construction of buildings, structures, sidewalks, curbs and related facilities for accessibility and usability. Further requirements and guidance are provided in Title 24 of the California Code of Regulations.

17. ADMINISTERING AGENCY shall provide a full-time public employee to be in responsible charge of each PROJECT. ADMINISTERING AGENCY shall provide or arrange for adequate supervision and inspection of each PROJECT. ADMINISTERING AGENCY may utilize consultants to perform supervision and inspection work for PROJECT with a fully qualified and licensed engineer. Utilization of consultants does not relieve ADMINISTERING AGENCY of its obligation to provide a full-time public employee to be in responsible charge of each PROJECT.

18. Unless otherwise provided in the PROGRAM SUPPLEMENT, ADMINISTERING AGENCY shall advertise, award, and administer the PROJECT construction contract or contracts.

19. The cost of maintenance, security, or protection performed by ADMINISTERING AGENCY or contractor forces during any temporary suspension of PROJECT or at any other time may not be charged to the PROJECT.

20. ADMINISTERING AGENCY shall submit PROJECT-specific award information to STATE's District Local Assistance Engineer, within sixty (60) days after contract award.

21. ADMINISTERING AGENCY shall submit the final report documents that collectively constitute a "Final Project Expenditure Report", LAPM Exhibit 17-M, within one hundred eighty (180) days of PROJECT completion. Failure by ADMINISTERING AGENCY to submit a "Final Project Expenditure Report", within 180 days of project completion will result in STATE imposing sanctions upon ADMINISTERING AGENCY in accordance with the Local Assistance Procedures Manual.

22. ADMINISTERING AGENCY shall comply with the Americans with Disabilities Act (ADA) of 1990 that prohibits discrimination on the basis of disability and all applicable regulations and guidelines issued pursuant to the ADA.

23. The Governor and the Legislature of the State of California, each within their respective jurisdictions, have prescribed certain nondiscrimination requirements with respect to contract and other work financed with public funds. ADMINISTERING

AGENCY agrees to comply with the requirements of the FAIR EMPLOYMENT PRACTICES ADDENDUM, attached hereto as Exhibit A and further agrees that any agreement entered into by ADMINISTERING AGENCY with a third party for performance of work connected with PROJECT shall incorporate Exhibit A (with third party's name replacing ADMINISTERING AGENCY) as parts of such agreement.

24. ADMINISTERING AGENCY shall include in all contracts and subcontracts awarded when applicable, a clause that requires each subcontractor to comply with California Labor Code requirements that all workers employed on public works aspects of any project (as defined in California Labor Code sections 1720-1815) be paid not less than the general prevailing wage rates predetermined by the Department of Industrial Relations as effective at the date of contract award by the ADMINISTERING AGENCY.

ARTICLE II - RIGHTS-OF-WAY

1. No contract for the construction of a STATE FUNDED PROJECT shall be awarded until all necessary rights of way have been secured. Prior to the advertising for construction of PROJECT, ADMINISTERING AGENCY shall certify and, upon request, shall furnish STATE with evidence that all necessary rights-of-way are available for construction purposes or will be available by the time of award of the construction contract.

2. The furnishing of rights of way by ADMINISTERING AGENCY as provided for herein includes, and is limited to, the following, unless the PROGRAM SUPPLEMENT provides otherwise.

(a) Expenditures of capital and support to purchase all real property required for PROJECT free and clear of liens, conflicting easements, obstructions and encumbrances, after crediting PROJECT with the fair market value of any excess property retained and not disposed of by ADMINISTERING AGENCY.

(b) The cost of furnishing of right-of-way as provided for herein includes, in addition to real property required for the PROJECT, title free and clear of obstructions and encumbrances affecting PROJECT and the payment, as required by applicable law, of damages to owners of remainder real property not actually taken but injuriously affected by PROJECT.

(c) The cost of relocation payments and services provided to owners and occupants pursuant to Government Code sections 7260-7277 when PROJECT displaces an individual, family, business, farm operation or nonprofit organization.

(d) The cost of demolition and/or the sale of all improvements on the right-of-way after credit is recorded for sale proceeds used to offset PROJECT costs.

(e) The cost of all unavoidable utility relocation, protection or removal.

(f) The cost of all necessary hazardous material and hazardous waste treatment, encapsulation or removal and protective storage for which ADMINISTERING AGENCY accepts responsibility and where the actual generator cannot be identified, and recovery made.

3. ADMINISTERING AGENCY agrees to indemnify and hold STATE harmless from any liability that may result in the event the right-of-way for a PROJECT is not clear as certified by ADMINISTERING AGENCY, including, but not limited to, if said right-of-way is found to contain hazardous materials requiring treatment or removal to remediate in accordance with Federal and State laws. ADMINISTERING AGENCY shall pay, from its own non- matching funds, any costs which arise out of delays to the construction of PROJECT because utility facilities have not been timely removed or relocated, or because rights-of-way were not available to ADMINISTERING AGENCY for the orderly prosecution of PROJECT work.

ARTICLE III - MAINTENANCE AND MANAGEMENT

1. ADMINISTERING AGENCY will maintain and operate the property acquired, developed, constructed, rehabilitated, or restored by PROJECT for its intended public use until such time as the parties might amend this AGREEMENT to otherwise provide. With the approval of STATE, ADMINISTERING AGENCY or its successors in interest in the PROJECT property may transfer this obligation and responsibility to maintain and operate PROJECT property for that intended public purpose to another public entity.

2. Upon ADMINISTERING AGENCY's acceptance of the completed construction contract or upon contractor being relieved of the responsibility for maintaining and protecting PROJECT, ADMINISTERING AGENCY will be responsible for the maintenance, ownership, liability, and the expense thereof, for PROJECT in a manner satisfactory to the authorized representatives of STATE and if PROJECT falls within the jurisdictional limits of another Agency or Agencies, it is the duty of ADMINISTERING AGENCY to facilitate a separate maintenance agreement(s) between itself and the other jurisdictional Agency or Agencies providing for the operation, maintenance, ownership and liability of PROJECT. Until those agreements are executed, ADMINISTERING AGENCY will be responsible for all PROJECT operations, maintenance, ownership and liability in a manner satisfactory to the authorized representatives of STATE. If, within ninety (90) days after receipt of notice from STATE that a PROJECT, or any portion thereof, is not being properly operated and maintained and ADMINISTERING AGENCY has not satisfactorily remedied the conditions complained of, the approval of future STATE FUNDED PROJECTS of ADMINISTERING AGENCY will be withheld until the PROJECT shall have been put in a condition of operation and maintenance satisfactory to STATE. The provisions of this section shall not apply to a PROJECT that has been vacated through due process of law with STATE's concurrence.

3. PROJECT and its facilities shall be maintained by an adequate and well-trained staff of engineers and/or such other professionals and technicians as PROJECT reasonably requires. Said operations and maintenance staff may be employees of ADMINISTERING

AGENCY, another unit of government, or a contractor under agreement with ADMINISTERING AGENCY. All maintenance will be performed at regular intervals or as required for efficient operation of the complete PROJECT improvements.

4. ADMINISTERING AGENCY shall comply with all applicable law, including but not limited to, all applicable legal authority regarding construction standards.

ARTICLE IV - FISCAL PROVISIONS

1. All contractual obligations of STATE are subject to the appropriation of resources by the Legislature and the allocation of resources by the CTC.

2. STATE'S financial commitment of STATE FUNDS will occur only upon the execution of this AGREEMENT, the execution of each project-specific PROGRAM SUPPLEMENT and/or STATE's approved finance letter.

3. ADMINISTERING AGENCY agrees, as a minimum, to submit invoices in arrears for reimbursement of allowable PROJECT costs at least once every six months commencing after the STATE FUNDS are encumbered on either the project-specific PROGRAM SUPPLEMENT or through a project-specific finance letter approved by STATE. STATE reserves the right to suspend future allocations and invoice payments for any on-going or future STATE FUNDED project performed by ADMINISTERING AGENCY if PROJECT costs have not been invoiced by ADMINISTERING AGENCY for a six-month period

4. Invoices shall be submitted on a standardized billing summary template, in accordance with Chapter 5 of the LAPM to claim reimbursement by ADMINISTERING AGENCY. For construction invoices, pay estimates must be included.

5. ADMINISTERING AGENCY must retain at least one copy of supporting backup documentation for allowable costs incurred and claimed for reimbursement by ADMINISTERING AGENCY. ADMINISTERING AGENCY agrees to submit supporting backup documentation with invoices if requested by State. Acceptable backup documentation includes, but is not limited to, agency's progress payment to the contractors, copies of cancelled checks showing amounts made payable to vendors and contractors, and/or a computerized summary of PROJECT costs.

6. Payments to ADMINISTERING AGENCY can only be released by STATE as reimbursements of actual allowable PROJECT costs already incurred and paid for by the ADMINISTERING AGENCY.

7. Indirect Cost Allocation Plans/Indirect Cost Rate Proposals (ICAP/ICRP), Central Service Cost Allocation Plans and related documentation are to be prepared and provided to the Inspector General - Independent Office of Audits and Investigations for review and approval prior to ADMINISTERING AGENCY seeking reimbursement of indirect cost incurred within each fiscal year being claimed for reimbursement.

ICAPs/ICRPs must be prepared in accordance with the requirements set forth in 2 CFR, Part 200, Chapter 5 of the LAPM, and the ICAP/ICRP approval procedures established by STATE.

8. STATE will withhold the greater of either two (2) percent of the total of all STATE FUNDS encumbered for each PROGRAM SUPPLEMENT or $40,000 until ADMINISTERING AGENCY submits the Final Report of Expenditures for each completed PROGRAM SUPPLEMENT PROJECT.

9. The estimated total cost of PROJECT, the amount of STATE FUNDS obligated, and the required matching funds may be adjusted by mutual consent of the PARTIES with a finance letter, and an allocation notification letter when applicable. STATE FUNDING may be increased to cover PROJECT cost increases only if such additional funds are available and the CTC and/or STATE concurs with that increase in the form of an allocation and finance letter.

10. When such additional STATE FUNDS are not available, ADMINISTERING AGENCY agrees that any increases in PROJECT costs must be defrayed with ADMINISTERING AGENCY's own funds.

11. ADMINISTERING AGENCY shall use its own non-STATE FUNDS to finance the local share of eligible costs and all PROJECT expenditures or contract items ruled ineligible for financing with STATE FUNDS. STATE shall make the final determination of ADMINISTERING AGENCY's cost eligibility for STATE FUNDED financing with respect to claimed PROJECT costs.

12. ADMINISTERING AGENCY will reimburse STATE for STATE's share of costs for work performed by STATE at the request of ADMINISTERING AGENCY. STATE's costs shall include overhead assessments in accordance with section 8755.1 of the State Administrative Manual.

13. STATE FUNDS allocated by the CTC and/or STATE are subject to the timely use of funds provisions approved in CTC Guidelines and State procedures approved by the CTC and STATE.

14. STATE FUNDS encumbered for PROJECT are available for liquidation only for a limited period from the beginning of the State fiscal year when those funds were appropriated in the State Budget. STATE FUNDS not liquidated within these periods will be reverted unless a Cooperative Work Agreement (CWA) is submitted by ADMINISTERING AGENCY and approved by the California Department of Finance in accordance with Section 16304 of the Government Code. The exact date of fund reversion will be reflected in the STATE signed PROJECT finance letter.

15. Payments to ADMINISTERING AGENCY for PROJECT-related travel and subsistence (per diem) expenses of ADMINISTERING AGENCY forces and its contractors and subcontractors claimed for reimbursement or as local match credit shall

not exceed rates authorized to be paid to rank and file STATE employees under current California Department of Human Resources (CalHR) rules unless a Cooperative Work Agreement (CWA) is submitted by ADMINISTERING AGENCY and approved by the California Department of Finance in accordance with Government Code section 16304. If the rates invoiced by ADMINISTERING AGENCY are in excess of CalHR rates, ADMINISTERING AGENCY is responsible for the cost difference, and any overpayments inadvertently paid by STATE shall be reimbursed to STATE by ADMINISTERING AGENCY on demand.

16. ADMINISTERING AGENCY agrees to comply with California Government Code 4525- 4529.14. Administering Agency shall undertake the procedures described in California Government Code 4527(a) and 4528(a). Administering Agency shall also comply with 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles and Audit Requirement for Federal Awards, excluding 2 CFR Part 200.318-200.326.

17. ADMINISTERING AGENCY agrees and will assure that its contractors and subcontractors will be obligated to agree that Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31, et seq., shall be used to determine the allowability of individual PROJECT cost items.
Every recipient and sub-recipient receiving PROJECT funds under this AGREEMENT shall comply with Federal administrative procedures in accordance with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirement for Federal Awards, excluding 2 CFR Part 200.318-200.326Governments. ADMINISTERING AGENCY agrees to comply with the provisions set forth in 23 CFR Parts 140, 645 and 646 when contracting with railroad and utility companies.

18. Every recipient and sub-recipient receiving PROJECT funds under this AGREEMENT shall comply with 2 CFR 200 excluding 2 CFR Part 200.318-200.326, 48 CFR Chapter 1, Part 31, LAPM, Public Contract Code (PCC) 10300- 10334 (procurement of goods), PCC 10335-10381 (non-A&E services), California Government Code 4525-4529.5 including 4527(a) and 4528(a), and other applicable STATE regulations.

19. Any PROJECT costs for which ADMINISTERING AGENCY has received payment or credit that are determined by subsequent audit to be questioned, disallowed, or unallowable under 2 CFR, Part 200, 48 CFR, Chapter 1, Part 31, 23 CFR Parts 140, 645 and 646, LAPM, Public Contract Code (PCC) 10300-10334 (procurement of goods), PCC 10335-10381 (non-A&E services), California Government Code 4525-4529.5 including 4527(a) and 4528(a), and other applicable STATE regulations are subject to repayment by ADMINISTERING AGENCY to STATE and may result in STATE imposing sanctions on ADMINISTERING AGENCY as described in Chapter 20 of the Local Assistance Procedures Manual.

20. Should ADMINISTERING AGENCY fail to refund any moneys due upon written demand by STATE as provided herein or should ADMINISTERING AGENCY breach this AGREEMENT by failing to complete PROJECT without adequate justification and approval by STATE, then, within thirty (30) days of demand, or within such other period

as may be agreed to in writing between the PARTIES hereto, STATE, acting through the State Controller, the State Treasurer, the CTC or any other public entity or agency, may intercept, withhold and demand the transfer of an amount equal to the amount paid by or owed to STATE for each PROJECT, from future apportionments, or any other funds due ADMINISTERING AGENCY from the Highway Users Tax Fund or any other sources of funds, and/or may also withhold approval of future STATE FUNDED projects proposed by ADMINISTERING AGENCY.

21. Should ADMINISTERING AGENCY be declared to be in breach of this AGREEMENT or otherwise in default thereof by STATE, and if ADMINISTERING AGENCY is constituted as a joint powers authority, special district, or any other public entity not directly receiving funds through the State Controller, STATE is authorized to obtain reimbursement from whatever sources of funding are available, including the withholding or transfer of funds, 20from those constituent entities comprising a joint powers authority or by bringing of an action against ADMINISTERING AGENCY or its constituent member entities, to recover all funds provided by STATE hereunder.

22. ADMINISTERING AGENCY acknowledges that the signatory party represents the ADMINISTERING AGENCY and further warrants that there is nothing within a Joint Powers Agreement, by which ADMINISTERING AGENCY was created, if any exists, that would restrict or otherwise limit STATE's ability to recover STATE FUNDS improperly spent by ADMINISTERING AGENCY in contravention of the terms of this AGREEMENT.

ARTICLE V

AUDITS, THIRD PARTY CONTRACTING, RECORDS RETENTION AND REPORTS

1. STATE reserves the right to conduct technical and financial audits of PROJECT work and records and ADMINISTERING AGENCY agrees, and shall require its contractors and subcontractors to agree, to cooperate with STATE by making all appropriate and relevant PROJECT records available for audit and copying as required by paragraph three (3) of Article V.

2. ADMINISTERING AGENCY, its contractors and subcontractors shall establish and maintain a financial management system and records that properly accumulate and segregate reasonable, allowable, and allocable incurred PROJECT costs and matching funds by line item for the PROJECT. The financial management system of ADMINISTERING AGENCY, its contractors and all subcontractors shall conform to Generally Accepted Accounting Principles, enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices sent to or paid by STATE.

3. ADMINISTERING AGENCY, ADMINISTERING AGENCY's contractors and subcontractors, and STATE shall each maintain and make available for inspection and audit by STATE, the California State Auditor, or any duly authorized representative of STATE or the United States, all books, documents, papers, accounting records, and other

evidence pertaining to the performance of such contracts, including, but not limited to, the costs of administering those various contracts, and ADMINISTERING AGENCY shall furnish copies thereof if requested. All of the above-referenced parties shall make such AGREEMENT and PROGRAM SUPPLEMENT materials available at their respective offices at all reasonable times during the entire PROJECT period and for three (3) years, or 35 years for Prop 1B funds, from the date of final payment to ADMINISTERING AGENCY.

4. ADMINISTERING AGENCY shall not award a construction contract over $25,000 on the basis of a noncompetitive negotiation for work to be performed under this AGREEMENT without the prior written approval of STATE. All contracts awarded by ADMINISTERING AGENCY intended or used as local match credit must meet the requirements set forth in this AGREEMENT regarding local match funds.

5. ADMINISTERING AGENCY shall comply with Chapter 10 (commencing with Section 4525) Division 5 of Title 1 of the Government Code and shall undertake the procedures described in California Government Code 4527(a) and 4528(a). Administering Agency shall comply with Chapter 10 of the LAPM for A&E Consultant Contracts.

6. ADMINISTERING AGENCY shall comply with Government Code Division 5 Title 1 sections 4525-4529.5 and shall undertake the procedures described in California Government Code 4527(a) and 4528(a) for procurement of professional service contracts. Administering Agency shall follow Public Contract Code Section 10335-10381 for other professional service contracts.

7. Any subcontract entered into by ADMINISTERING AGENCY as a result of this AGREEMENT shall contain all of the provisions of Article IV, FISCAL PROVISIONS, and this ARTICLE V, AUDITS, THIRD-PARTY CONTRACTING, RECORDS RETENTION AND REPORTS and shall mandate that travel and per diem reimbursements and third party contract reimbursements to subcontractors will be allowable as PROJECT costs only after those costs are incurred and paid for by the subcontractors.

8. To be eligible for local match credit, ADMINISTERING AGENCY must ensure that local match funds used for a PROJECT meet the fiscal provisions requirements outlined in ARTICLE IV in the same manner that is required of all other PROJECT expenditures.

9. Except as provided in this Article, this AGREEMENT is solely between and for the benefit of the PARTIES and there are no third-party beneficiaries.

ARTICLE VI - MISCELLANEOUS PROVISIONS

1. ADMINISTERING AGENCY agrees to use all PROJECT funds reimbursed hereunder only for transportation purposes that are in conformance with Article XIX of the California State Constitution and other California laws.

2. ADMINISTERING AGENCY shall conform to all applicable State and Federal statutes and regulations, and the Local Assistance Program Guidelines and Local Assistance

Procedures Manual as published by STATE and incorporated herein, including all subsequent approved revisions thereto applicable to PROJECT unless otherwise designated in the project-specific executed PROJECT SUPPLEMENT.

3. This AGREEMENT is subject to any additional restrictions, limitations, conditions, or any statute enacted by the State Legislature or adopted by the CTC that may affect the provisions, terms, or funding of this AGREEMENT in any manner.

4. ADMINISTERING AGENCY and the officers and employees of ADMINISTERING AGENCY, when engaged in the performance of this AGREEMENT, shall act in an independent capacity and not as officers, employees or agents of STATE.

5. Each project-specific PROGRAM SUPPLEMENT shall separately establish the terms and funding limits for each described PROJECT funded under this AGREEMENT and that PROGRAM SUPPLEMENT. No STATE FUNDS are obligated against this AGREEMENT.

6. ADMINISTERING AGENCY certifies that neither ADMINISTERING AGENCY nor its principals are suspended or debarred at the time of the execution of this AGREEMENT, and ADMINISTERING AGENCY agrees that it will notify STATE immediately in the event a suspension or a debarment occurs after the execution of this AGREEMENT.

7. ADMINISTERING AGENCY certifies, by execution of this AGREEMENT, that no person or selling agency has been employed or retained to solicit or secure this AGREEMENT upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by ADMINISTERING AGENCY for the purpose of securing business. For breach or violation of this warranty, STATE has the right to annul this AGREEMENT without liability, pay only for the value of the PROJECT work actually performed, or in STATE's discretion, to deduct from the price of PROGRAM SUPPLEMENT consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

8. In accordance with Public Contract Code section 10296, ADMINISTERING AGENCY hereby certifies under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against ADMINISTERING AGENCY within the immediate preceding two (2) year period because of ADMINISTERING AGENCY's failure to comply with an order of a federal court that orders ADMINISTERING AGENCY to comply with an order of the National Labor Relations Board.

9. ADMINISTERING AGENCY shall disclose any financial, business, or other relationship with STATE that may have an impact upon the outcome of this AGREEMENT or any individual PROJECT encompassed within a PROGRAM SUPPLEMENT. ADMINISTERING AGENCY shall also list current contractors who may have a financial interest in the outcome of a PROJECT undertaken pursuant to this AGREEMENT. These

disclosures shall be delivered to STATE in a form deemed acceptable by the STATE prior to execution of this AGREEMENT.

10. ADMINISTERING AGENCY hereby certifies that it does not have, nor shall it acquire, any financial or business interest that would conflict with the performance of any PROJECT initiated under this AGREEMENT.

11. ADMINISTERING AGENCY certifies that this AGREEMENT was not obtained or secured through rebates, kickbacks or other unlawful consideration either promised or paid to any STATE employee. For breach or violation of this warranty, STATE shall have the right, in its sole discretion, to terminate this AGREEMENT without liability, to pay only for PROJECT work actually performed, or to deduct from a PROGRAM SUPPLEMENT price or otherwise recover the full amount of such rebate, kickback, or other unlawful consideration.

12. Any dispute concerning a question of fact arising under this AGREEMENT that is not disposed of by agreement shall be decided by the STATE's Contract Manager, who shall be identified to ADMINISTERING AGENCY at the time of execution of this AGREEMENT and, as applicable, any time that Contract Manager changes during the duration of this AGREEMENT who may consider any written or verbal evidence submitted by ADMINISTERING AGENCY. The decision of the Contract Manager, issued in writing, shall be conclusive and binding on the PARTIES on all questions of fact considered and determined by the Contract Manager.

13. Neither the pending of a dispute nor its consideration by the Contract Manager will excuse the ADMINISTERING AGENCY from full and timely performance in accordance with the terms of this AGREEMENT and each PROGRAM SUPPLEMENT.

14. Neither STATE nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by ADMINISTERING AGENCY under or in connection with any work, authority or jurisdiction of ADMINISTERING AGENCY arising under this AGREEMENT. It is understood and agreed that ADMINISTERING AGENCY shall fully defend, indemnify and save harmless STATE and all of its officers and employees from all claims and suits or actions of every name, kind and description brought forth under, including but not limited to, tortuous, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by ADMINISTERING AGENCY under this AGREEMENT.

15. Neither ADMINISTERING AGENCY nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by, under or in connection with any work, authority or jurisdiction arising under this AGREEMENT. It is understood and agreed that STATE shall fully defend, indemnify and save harmless the ADMINISTERING AGENCY and all of its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including but not limited to, tortuous, contractual, inverse

condemnation and other theories or assertions of liability occurring by reason of anything done or omitted to be done by STATE under this AGREEMENT.

16. In the event of (a) ADMINISTERING AGENCY failing to timely proceed with effective PROJECT work in accordance with the project-specific PROGRAM SUPPLEMENT; (b) failing to maintain any applicable bonding requirements; and (c) otherwise materially violating the terms and conditions of this AGREEMENT and/or any PROGRAM SUPPLEMENT, STATE reserves the right to terminate funding for that PROJECT upon thirty (30) days' written notice to ADMINISTERING AGENCY.

17. No termination notice shall become effective if, within thirty (30) days after receipt of a Notice of Termination, ADMINISTERING AGENCY either cures the default involved or, if the default is not reasonably susceptible of cure within said thirty (30) day period the ADMINISTERING AGENCY proceeds thereafter to complete that cure in a manner and time line acceptable to STATE.

18. Any such termination shall be accomplished by delivery to ADMINISTERING AGENCY of a Notice of Termination, which notice shall become effective not less than thirty (30) days after receipt, specifying the reason for the termination, the extent to which funding of work under this AGREEMENT and the applicable PROGRAM SUPPLEMENT is terminated and the date upon which such termination becomes effective, if beyond thirty (30) days after receipt. During the period before the effective termination date, ADMINISTERING AGENCY and STATE shall meet to attempt to resolve any dispute. In the event of such termination, STATE may proceed with the PROJECT work in a manner deemed proper by STATE. If STATE terminates funding for PROJECT with ADMINISTERING AGENCY for the reasons stated in paragraph sixteen (16) of ARTICLE VI, STATE shall pay ADMINISTERING AGENCY the sum due ADMINISTERING AGENCY under the PROGRAM SUPPLEMENT and/or STATE-approved finance letter prior to termination, provided, however, ADMINISTERING AGENCY is not in default of the terms and conditions of this AGREEMENT or the project-specific PROGRAM SUPPLEMENT and that the cost of any PROJECT completion to STATE shall first be deducted from any sum due ADMINISTERING AGENCY.

19. In the case of inconsistency or conflicts with the terms of this AGREEMENT and that of a project-specific PROGRAM SUPPLEMENT and/or Cooperative Agreement, the terms stated in that PROGRAM SUPPLEMENT and/or Cooperative Agreement shall prevail over those in this AGREEMENT.

20. Without the written consent of STATE, this AGREEMENT is not assignable by ADMINISTERING AGENCY either in whole or in part.

21. No alteration or variation of the terms of this AGREEMENT shall be valid unless made in writing and signed by the PARTIES, and no oral understanding or agreement not incorporated herein shall be binding on any of the PARTIES.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT by their duly authorized officer.

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION
By _____
Ferdinand A. Batatan
FOR Chief, Office of Project Implementation
Division of Local Assistance

Date 3/8/2022

CITY OF OXNARD
By _____
Mayor,
City of Oxnard

Date 3-1-22

APPROVED AS TO FORM:

Stephen M. Fischer
City Attorney

EXHIBIT E

CONSULTANT/PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and LSY Enterprise, LLC)

LIVING WAGE POLICY

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

A. CONSULTANT shall compensate any employee of CONSULTANT who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as the Living Wage Policy Exhibit. While this Agreement is in effect, CONSULTANT shall pay such employee no less than $19.51 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.

EXHIBIT F
PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and LSY Enterprise, Inc.)

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

Public Contract Code Sections 2202-2208

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

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

OPTION No.1 - CERTIFICATION

I, the official named below, certify I am duly authorized to execute this certification on behalf of the company/entityidentified below, and the company/entity identified below is not on the current list of persons engaged in investment activities in Iran created by DGS and is not a financial institution extending twenty million dollars ($20,000,000) or more in credit to another person or entity, for 45 days or more, if that other person or company/entity will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engagedin investment activities in Iran created by DGS in accordance with subdivision (b) of Public Contract Code 2203.

Company Name/Financial Institution (printed): _____ Federal ID Number (or n/a): _____

By (Authorized Signature): _____

Printed Name & Title of Person Signing: _____ Date Executed _____

Executed in the County of_____ in the State of _____

OPTION No.2 - EXEMPTION

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

Company Name/Financial Institution (printed): _____ Federal ID Number (or n/a): _____

By (Authorized Signature): _____

Printed Name & Title of Person Signing: _____ Date Executed _____

Executed in the County of_____ in the State of _____

Professional Services Agreements 32500224 with Kimley-Horn and Associates, Inc., 32500226 with Fehr & Peers and 32500223 with LSY Enterprise, Inc. for as needed Traffic-Related and Planning Services.

Public Works and Transportation Committee
November 12, 2024

City Council
December 3, 2024

Debbie O'Leary, Transportation Planner
Traffic Engineering Division

CITY OF OXNARD CALIFORNIA

RECOMMENDATION

That the Public Works and Transportation Committee recommend that the City Council approve and authorize the Mayor to execute the following:

1. An Agreement with Kimley-Horn and Associates, Inc. for an initial term of three years from December 4, 2024, to December 3, 2027, with the option for two consecutive one-year period extensions ending December 3, 2029, for a total not-to-exceed amount of $1,500,000 for as needed Traffic Signal Operations and Engineering Services Specification No. PW 25-18;
2. An Agreement with Fehr & Peers for an initial term of three years from December 4, 2024, to December 3, 2027, with the option for two consecutive one-year period extensions ending December 3, 2029, for a total not-to-exceed amount of $1,500,000 for as needed Transportation Planning and Grant Writing Services Specification No. PW 25-19; and
3. An Agreement with LSY Enterprise, Inc. for an initial term of three years from December 4, 2024, to December 3, 2027, with the option for two consecutive one-year period extensions ending December 3, 2029, for a total not-to-exceed amount of $1,500,000 for as needed General Traffic Engineering Services Specification No. PW 25-20.

RECOMMENDATION

That the City Council approve and authorize the Mayor to execute the following:

1. An Agreement with Kimley-Horn and Associates, Inc. for an initial term of three years from December 4, 2024, to December 3, 2027, with the option for two consecutive one-year period extensions ending December 3, 2029, for a total not-to-exceed amount of $1,500,000 for as needed Traffic Signal Operations and Engineering Services Specification No. PW 25-18;
2. An Agreement with Fehr & Peers for an initial term of three years from December 4, 2024, to December 3, 2027, with the option for two consecutive one-year period extensions ending December 3, 2029, for a total not-to-exceed amount of $1,500,000 for as needed Transportation Planning and Grant Writing Services Specification No. PW 25-19; and
3. An Agreement with LSY Enterprise, Inc. for an initial term of three years from December 4, 2024, to December 3, 2027, with the option for two consecutive one-year period extensions ending December 3, 2029, for a total not-to-exceed amount of $1,500,000 for as needed General Traffic Engineering Services Specification No. PW 25-20.

BACKGROUND

The Traffic Engineering Division utilizes consulting firms to provide licensed technical expertise. Having pre-approved professional service agreements provides Staff with resources to research and respond to traffic related 311 inquiries such as:

- requests for speed hump installation
- requests for stop signs
- requests for traffic control devices such as flashing beacons or signage
- requests for crosswalk enhancements
- requests for changes to traffic signal timing

In addition, consultants provide specialty knowledge for larger assignments and capital improvement projects including:

- grant writing and preparation of the required supporting documents
- development of transportation planning documents
- traffic feasibility studies and concept designs
- plan check reviews
- preparation of plans, specifications and estimates for select capital projects

DISCUSSION

On August 7, 2024, the Public Works Department advertised three (3) separate Request for Proposals (RFP's) for as-needed services.

1. Traffic Signal Operations and Engineering Services (PW 25-18)
2. Transportation Planning and Grant Writing Services (PW 25-19)
3. General Traffic Engineering Services (PW 25-20)

CITY OF OXNARD CALIFORNIA

City of Oxnard
Request for Proposals
for
On-Call Traffic Signal Operations
and Engineering
PW 25-18

Bid Close Date: September 10, 2024
at or before 2:00 p.m. PT

City of Oxnard
Purchasing
300 West Third Street
Oxnard, CA 93030

Solicitation opportunities: https://www.oxnard.org/rfps-and-rfqs/
City Website: https://www.oxnard.org/

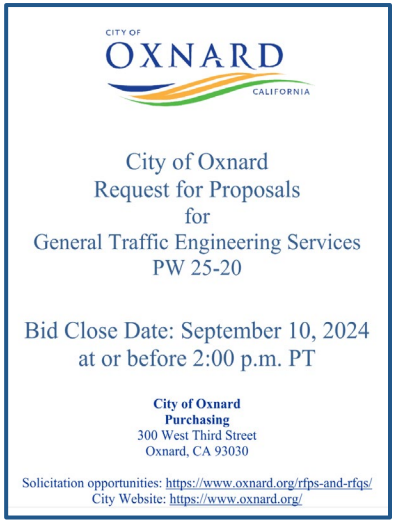
CITY OF OXNARD CALIFORNIA

City of Oxnard
Request for Proposals
for
On-Call Transportation Planning
and Grant Writing
PW 25-19

Bid Close Date: September 10, 2024
at or before 2:00 p.m. PT

City of Oxnard
Purchasing
300 West Third Street
Oxnard, CA 93030

Solicitation opportunities: https://www.oxnard.org/rfps-and-rfqs/
City Website: https://www.oxnard.org/


CITY OF OXNARD CALIFORNIA

City of Oxnard
Request for Proposals
for
General Traffic Engineering Services
PW 25-20

Bid Close Date: September 10, 2024
at or before 2:00 p.m. PT

City of Oxnard
Purchasing
300 West Third Street
Oxnard, CA 93030

Solicitation opportunities: https://www.oxnard.org/rfps-and-rfqs/
City Website: https://www.oxnard.org/

All bids were due on September 10, 2024. The following slides describe the scope of services and consultant selection.

DISCUSSION

Traffic Signal Operations and Engineering Services (PW 25-18)
Highlights of services include but are not limited to:

- Preliminary engineering
- Feasibility studies
- Data collection and analysis
- Signal operation analyses
- Traffic management plans
- Traffic signal specifications and estimates

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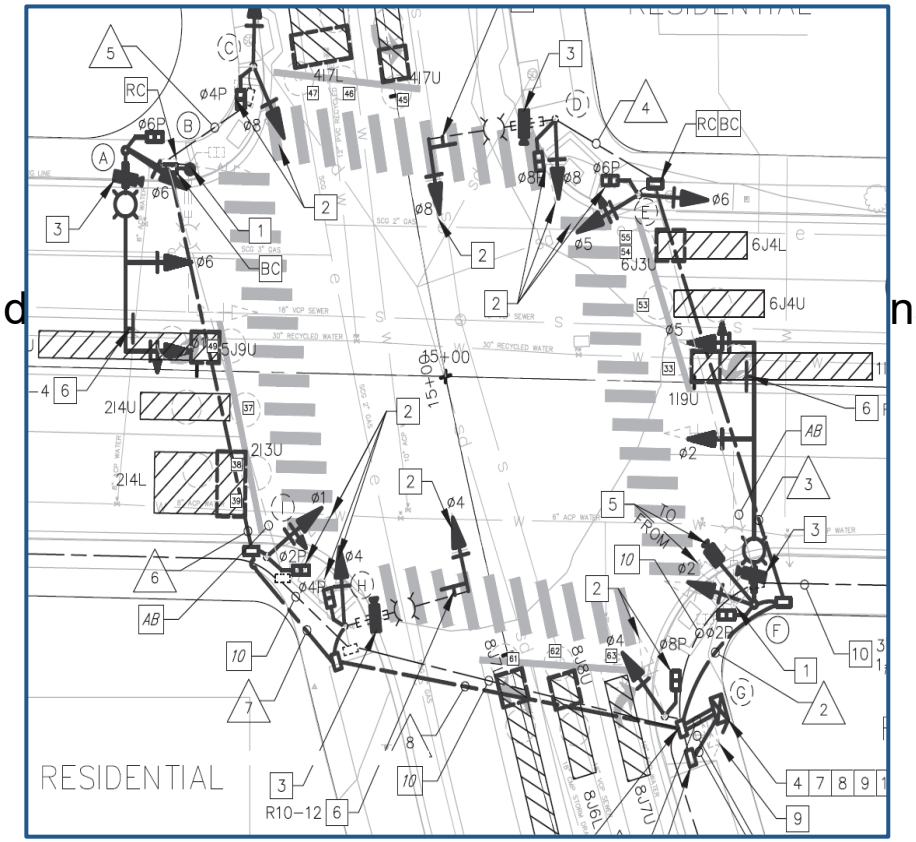

The City received three (3) proposals. Kimley-Horn and Associates, Inc. was selected based on:

- Qualifications and knowledge
- Technical experience
- Prior success on City projects

DISCUSSION

Transportation Planning and Grant Writing Services (PW 25-19)
Highlights of services include but are not limited to:

- Grant writing
- Transportation planning
- Policy recommendations
- Impact fee updates
- Traffic modeling
- Feasibility studies
- User data collection (bike, peds)

The City received two (2) proposals.
Fehr & Peers was selected based on:

- Qualifications and knowledge
- Expert plan development
- Grant writing success
- Prior success on City projects

Federal Funding and Financing

Federal Funding and Financing explains what a federal grant is and how it differs from other common types of government funding and financing, including cooperative agreements, loans, contracts, and non-discretionary opportunities such as formula grants.

The Grant Application Process

The Grant Application Process describes the grant application process for USDOT and other federal agencies and provides an applicant roadmap.

Maximizing Award Success

Maximizing Award Success provides a broad overview of how to put together an effective grant application.

USDOT Discretionary Grant Programs

USDOT Discretionary Grant Programs provides information about each of the discretionary grant programs that USDOT offers, organized by USDOT's operating administrations (OAs or "modes").

Non-USDOT Discretionary Grants: Agency Descriptions and Programs

Non-USDOT Discretionary Grants: Agency Descriptions and Programs provides information about a selection of discretionary grant programs offered by federal agencies outside of USDOT. The selected discretionary grant programs were identified as relevant to rural transportation projects.

DISCUSSION

General Traffic Engineering Services (PW 25-20)
Highlights of services include but are not limited to:

- Traffic calming recommendations
- Speed survey data collection
- Plan check reviews
- Signal timing and Intelligent Transportation System (ITS)
- Traffic calming de specifications and estimates

The City received three (3) proposals. LSY Enterprise, Inc. was selected based on:

- Qualifications and knowledge
- Local agency experience
- Prior success on City projects

DISCUSSION

Professional services under these three (3) agreements will be initiated through work orders for each individual assignment or project. All work will be performed under the supervision of a Traffic Engineer or Project Manager.

Each work order will identify:

- The scope of work to be performed by the consultant
- The method by which the consultant plans on completing the work
- A schedule for completion of the work

FINANCIAL IMPACT

- Total amount of each agreement shall not exceed $1,500,000 over the term of three years with two one-year extension options.
- Funding will be charged to a given project or funding source dependent upon the services performed by work orders.
- Traffic Engineering Division will ensure sufficient funding is available in the approved operating budget or CIP project budget for related tasks prior to initiating work order or services performed.

CITY OF
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End of Presentation