

**CITY OF OXNARD  
UTILITY AGREEMENT**

City Agreement No. A-6897

Dist.	Co.	Rte.	K.P.	E.A.
07	VEN	101	31.2 to 33.2	003431
<b>Federal Aid No.:</b> STPL 5129(012)				
<b>Owner's File:</b>				
<b>Federal Participation:</b>		<b>On the Project:</b>	X yes	yes
		<b>On the Utilities:</b>	X yes	no

**UTILITY AGREEMENT NO. A-6897**

This Agreement for installation of two (2) 2-inch main tie overs, the abandonment of 3-inch and 4-inch gas lines, and relocation of an 8-inch gas line ("Agreement") is made and entered into in the County of Ventura, State of California, this \_\_\_\_ day of \_\_\_\_\_, 2010, by and between the City of Oxnard, a municipal corporation, hereinafter called "CITY," and Southern California Gas Company, a California corporation, hereinafter called "OWNER."

CITY proposes to construct Highway 101 Rice Avenue/Santa Clara Avenue interchange improvements and realign Ventura Boulevard, Project Specification No. PW03-19 (the "Project"). OWNER owns and maintains the portion of the 3-inch, 4-inch, and 8-inch (200 mm) lines located at Rice Avenue/Santa Clara Avenue, City of Oxnard, State of California, Route VEN-101 (the "Lines") that are within the limits of the Project and require abandonment or relocation to accommodate the Project.

CITY delivered to OWNER a Notice to Owner No. SCG 002 PW03-19 (the "Notice to Owner") dated February 10, 2009, whereby CITY requested that OWNER relocate the Lines, including approximately 1,800 feet of the 8-inch Line to accommodate the Project.

CITY and OWNER have agreed that the two (2) 2-inch main tie overs shall be installed, the 3-inch and 4-inch lines shall be abandoned, and the 8-inch line shall be relocated on the terms and conditions set forth below.

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, CITY and OWNER hereby mutually agree that:

**I. WORK TO BE DONE**

- A. In accordance with the Notice to Owner, OWNER agrees to relocate the Lines on the terms and conditions set forth herein in order to allow the Project to proceed.
- B. All work to relocate the 8-inch Line (the "Work") shall be performed substantially in accordance with OWNER's Plan No. 80494, dated June 4, 2008 consisting of 1 sheet, and dated November 14, 2008, consisting of 2 sheets; and Plan No. 80548 dated October 7, 2008, consisting of 2 sheets (the "Plans"), copies of which are on file in CITY's Development Services Department, Transportation Planning, 214 South C Street, Oxnard CA 93030. CITY has reviewed the alignment and depth of the 8-inch Line reflected in the Plans, and has determined that the Plans do not depict any conflict with the Project. Material deviations

from the Plans initiated by either CITY or OWNER shall be agreed upon by both parties. If either CITY or OWNER desires any material deviation from the Plans, then the requesting party shall submit to the other party a written request describing such material deviation in reasonable detail and setting forth the estimated increase in the cost of the Work as a result of such material deviation, and the receiving party shall approve or disapprove such request as soon as reasonably practicable under the circumstances after receipt of the request. As soon as reasonably practicable under the circumstances after any written request is approved, OWNER shall submit revisions to the Plans reflecting such approved material deviation, and OWNER and CITY shall work together diligently and in good faith to develop final revisions to the Plans, provided that CITY shall not disapprove any revisions to the Plans reflecting an approved material deviation unless: (a) such revisions do not accurately reflect the approved material deviation, or (b) the actual cost of implementing such revisions to the Plans would result in an increase in the cost of the Work that exceeds an amount equal to one hundred ten percent (110%) of the estimated increase in the cost of the Work. Within five (5) business days after OWNER and CITY agree on the final revisions to the Plans, CITY shall issue a revised Notice to Owner. Revised Notices to Owner approved by CITY and acknowledged by OWNER shall constitute an approved revision of the Plans. No Work materially deviating from the Plans shall commence before CITY shall have issued and OWNER shall have acknowledged such an approved revision of the Plans. Upon the approval of any revision to the Plans that will increase the cost of the Work, CITY shall pay to OWNER an amount equal to fifty percent (50%) of the estimated increased cost of the Work (a "Revision Deposit").

- C. OWNER shall abandon the 3-inch and 4-inch Lines in place in accordance with City, State, and federal law and relinquish to CITY all right, title, and interest therein.
- D. In addition, it is mutually agreed that CITY will include the work of installing the pre-cast concrete blocks and all associated hardware as part of CITY's highway construction contract ("Block Work"). OWNER shall have access to all phases of the Block Work to be performed by CITY for the purpose of inspection to ensure that the Block Work being performed for OWNER is in accordance with the specifications contained in the highway contract; however, all questions regarding the Block Work being performed will be directed to CITY's resident engineer for his or her evaluation and final disposition. Upon completion of the Block Work performed by CITY, OWNER agrees to accept ownership and maintenance of the constructed facilities. The parties will share the cost of the Block Work as set out in Section IVG of this Agreement.
- E. OWNER shall diligently prosecute the Work to completion, and shall complete the Work no later than February 25, 2012; provided, however, that said date shall be extended for the period that OWNER is delayed or prevented from performing the Work because of any act, event or circumstance beyond OWNER's reasonable control, including, but not limited to, acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations imposed after this Agreement was executed, fire, communication line failures, earthquakes, or other disasters, labor or material shortages, terrorist acts, government moratorium, government action or inaction, tornadoes, hurricanes, floods, mudslides, inclement weather,

action by CITY or failure to act by CITY where CITY had a duty or obligation to act ("Force Majeure").

## II. LIABILITY FOR WORK

A. CITY and OWNER disagree as to how the parties are to bear liability for the cost of the Work. The disagreement arises from the relationship among various agreements that the CITY, OWNER, the County of Ventura ("COUNTY") and the State of California ("STATE") have entered into, as follows:

- (1) A franchise agreement between CITY and OWNER (CITY's Ordinance No. 1299, effective September 4, 1970);
- (2) A franchise agreement between COUNTY and OWNER (COUNTY's Ordinance No. 4111, effective March 1996);
- (3) An Amended Master Agreement between STATE and OWNER, dated November 24, 1964;
- (4) A Freeway Master Contract between STATE and OWNER, dated November 1, 2004; and
- (5) A Cooperative Agreement between CITY and STATE, dated September 2, 1998.

B. By way of background, and not as recitals by which the parties intend to be bound:

- (1) With respect to the Work, CITY's interpretation of the agreements is that STATE and OWNER are each liable for fifty percent (50%) of the cost of the Work with respect to the utility facilities that will be located within STATE's highway right of way upon completion of the Project, and OWNER is liable for one hundred percent (100%) of the cost of the Work with respect to the utility facilities that will be located outside of STATE's highway right of way upon completion of the Project.
- (2) With respect to the Work, OWNER's interpretation of the agreements is that either CITY or STATE, on the one hand, and OWNER, on the other hand, are each liable for fifty percent (50%) of the cost of the Work, regardless of whether the utility facilities will be located within or outside of STATE's highway right of way upon completion of the Project.

C. CITY and OWNER recognize the public importance of the Project and the necessity to proceed with the Project without the delay inherent in obtaining a settlement or a judicial or regulatory determination of the formula for allocation of the cost of the Work. For this reason, CITY and OWNER agree that, without either CITY or OWNER waiving any right to pursue such a determination or settlement, OWNER will proceed with the performance of the Work upon receipt from CITY of a deposit in the amount of \$252,781.50 (the "Deposit"), as

provided in Section IV of this Agreement, representing fifty percent (50%) of the estimated cost of the Work, as determined in OWNER's reasonable discretion less fifty percent (50%) of the estimated cost of the Block Work.

- D. CITY and OWNER agree that for six (6) months after the date of this Agreement, or such additional time as the parties may agree to, they will negotiate in good faith to reach a settlement as to the allocation of the cost of the Work. CITY and OWNER agree that if such a settlement regarding the allocation of the cost of the Work is not reached, at any time within five (5) years after the expiration of such six (6) month period or any mutually agreed extension thereof, either party may take action to obtain a decision as to the allocation of the cost of the Work, whether in a court of competent jurisdiction, before the California Public Utilities Commission ("PUC") or other regulatory agency with competent jurisdiction, and so long as such action is commenced within the time period set forth herein, the other party will not raise a statute of limitations as a defense thereto; provided, however, that before taking action, the moving party shall make a written demand on the other party for payment of a specific amount by a specific date, which shall be no sooner than sixty (60) days from the date of the demand, together with a detailed explanation of how such amount was calculated and the reason for the demand. If the demand is paid, the moving party shall take no action.
- E. CITY and OWNER agree that the prevailing party's reasonable costs, attorneys' fees (including the reasonable value of services rendered by the City Attorney's Office or other in-house attorneys and outside counsel) and expenses, including investigation fees and expert witness fees, shall be paid by the non-prevailing party in any such action filed by CITY or OWNER.
- F. CITY and OWNER agree that if at any time, CITY obtains a final judicial or regulatory determination requiring OWNER to reimburse any of the share of the cost of the Work paid by CITY, OWNER will make such reimbursement within thirty (30) days after the date that such determination is final and all appeal periods have expired, together with interest thereon, from the date of CITY's payment of the costs of the Work until the date that OWNER pays to CITY such reimbursement, at a rate equal to the applicable Local Agency Investment Fund rate, as published by the STATE Treasurer.
- G. CITY and OWNER agree that if at any time OWNER obtains a final judicial or regulatory determination that allocates to CITY an additional share of the cost of the Work, then within thirty (30) days after the date that such determination is final and all appeal periods have expired, CITY will pay OWNER an amount equal to the difference between the portion of the cost of the Work payable by CITY under such determination, less the portion of the cost of the Work actually paid by CITY under this Agreement, together with interest thereon from the date of such determination until the date that CITY pays OWNER the amount due, at a rate equal to the applicable Local Agency Investment Fund rate, as published by the STATE Treasurer.

### III. PERFORMANCE OF WORK

A. OWNER agrees to perform the Work, except the portion of the Work performed by CITY's highway contractor, with OWNER's own forces or to cause such Work to be performed pursuant to a contract with the lowest qualified bidder, selected pursuant to a valid competitive bidding procedure, and to furnish or cause to be furnished all necessary labor, materials, tools and equipment required therefore, and to prosecute said work diligently to completion, subject to Force Majeure.

B. Prevailing Wage Requirements for Contracted Work:

Pursuant to Public Works Case No. 2001-059 determination by the California Department of Industrial Relations dated October 25, 2002, the Work performed by OWNER's contractor is a public work under the definition of Labor Code Section 1720(a) and is therefore subject to prevailing wage requirements. OWNER shall verify compliance with this requirement in the administration of its contracts referenced above.

### IV. PAYMENTS FOR WORK

A. As set out in Section II.C of this Agreement, CITY agrees to pay fifty percent (50%) of the cost of the Work and OWNER agrees to pay fifty percent (50%) of the cost of the Work, pending resolution of the issues relating to allocation of liability for the cost of the Work. Within ninety (90) days after the execution of this Agreement and as a condition precedent to OWNER's obligation to commence the Work, CITY shall pay to OWNER the Deposit. Within twenty (20) business days after the issuance and acknowledgement of any approved revision to the Plans that will increase the cost of the Work, and as a condition precedent to OWNER's obligation to perform such revisions, CITY shall pay to OWNER a Revision Deposit.

B. The parties understand and agree that CITY will not pay for any betterment or increase in capacity of OWNER's facilities in the new location and that OWNER shall give credit to the CITY for all accrued depreciation on the replaced facilities and for the salvage value of any material or parts salvaged and retained or sold by OWNER.

C. If OWNER becomes aware that the actual aggregate cost of performing the Work will exceed the estimated cost of the Work set forth in Section VII.E ("Additional Cost"), then OWNER shall deliver to CITY written notice setting forth the amount of the Additional Cost, together with reasonable supporting documentation of the amount and reason for such Additional Cost, provided that OWNER's failure to so notify the CITY shall not affect CITY's obligation to pay its share of the cost of the Work. Promptly upon receipt of written notice of any Additional Cost, and as a condition precedent to OWNER's obligation to continue performing the Work, CITY shall pay to OWNER an amount equal to fifty percent (50%) of the estimated Additional Cost, as determined by OWNER in its reasonable discretion (each, an "Additional Cost Deposit" and together with the Deposit and any Revision Deposit, the "Deposits").

- D. OWNER shall submit a final bill to CITY within three hundred sixty (360) days after the completion of the Work described in Section I above, which shall be in quintuplicate, signed by a responsible official of OWNER's organization or prepared on OWNER's letterhead, compiled on the basis of the actual cost and expense incurred and charged or allocated to said Work in accordance with the uniform system of accounts prescribed for OWNER by the California Public Utilities Commission. The amount payable by CITY in OWNER's final bill shall be equal to fifty percent (50%) of the total cost and expense incurred and charged or allocated to the Work, less the aggregate amount of the Deposits already paid by CITY to OWNER. If the amount payable by CITY set forth in the final bill is greater than zero, then CITY shall pay to OWNER such amount within ninety (90) days after receipt of OWNER's itemized bill. If the amount payable by CITY set forth in the final bill is less than zero, then OWNER shall pay to CITY an amount equal to the deficiency within ninety (90) days after delivery of OWNER's itemized bill.
- E. If CITY has not received a final bill within three hundred sixty (360) days after notification of completion of the Work described in Section I of this Agreement, CITY will provide written notification to OWNER of its intent to close its file within thirty (30) days, provided that the delivery of such notice shall not affect CITY's obligation to pay its share of the cost of the Work.
- F. Detailed records from which the billing is compiled shall be retained by OWNER for a period of three (3) years from the date of the final bill and will be available for audit by CITY, STATE, and federal auditors. OWNER agrees to comply with audit principles and standards as set forth in 48 CFR, Chapter 1, Part 31.
- G. The Block Work described in Section ID above will be performed in an area that will be located within STATE's highway right of way on completion of the Project. Consistent with each party's interpretation of this Agreement, as set out in Section IIB above, CITY and OWNER agree that each party is liable for fifty percent (50%) of the cost of the Block Work. CITY's contractor has bid \$24,700 to perform the Block Work. In order to implement the cost sharing agreement set out in this section IVG, CITY shall pay CITY's contractor for the actual cost of the Block Work, and CITY's share of the cost of the Work is reduced by deducting fifty percent (50%) of the actual cost of the Block Work. CITY's deposit as set out in section IIC shall be reduced by 50% of the estimated cost of the Block Work (\$12,350). When OWNER submits the final bill to CITY as set out in section IVD, OWNER shall include such \$12,350 in the aggregate amount of Deposits already paid by CITY to OWNER. If the actual cost of the Block Work is different from the estimated cost of the Block Work, such difference shall be addressed as set out in the last two sentences of section IVD to reflect the lesser or greater amount.

## V. INSURANCE

- A. OWNER shall require contractors performing the Work to obtain and maintain during the performance of the Work the insurance coverages as specified in Exhibit INS-E, attached

hereto and incorporated herein by this reference, issued by a company reasonably satisfactory to the CITY's Risk Manager, unless the CITY's Risk Manager waives, in writing, the requirement that OWNER's contractors obtain and maintain such insurance coverages.

- B. OWNER shall, prior to performance of the Work, file with the CITY's Risk Manager evidence of Owner's contractors' insurance coverage as specified in Exhibit INS-E. Evidence of insurance coverage shall be forwarded to the CITY's Risk Manager, addressed as specified in Exhibit INS-E.
- C. Maintenance of proper insurance coverages by OWNER's contractors is a material element of this Agreement. OWNER's contractors' failure to maintain or renew insurance coverages or to provide evidence of renewal may be considered as a material breach of this Agreement.

## VI. INDEMNITY

- A. OWNER agrees to indemnify, hold harmless and defend CITY, its City Council, and each member thereof, and every officer or employee of CITY, from any and all liability, claims, demands, actions, damages (whether in contract or tort, including personal injury, death at any time, or property damage), costs and financial loss, including all costs and expenses and fees of litigation or arbitration (collectively, "Claims"), that arise directly from any OWNER default under this Agreement or the active negligence or willful misconduct by OWNER or its authorized agents, employees, contractors, consultants, subconsultants, or subcontractors in the performance of the Work, excepting therefrom any Claims to the extent arising from the negligence or willful misconduct of CITY, STATE or their respective authorized agents, employees, contractors, consultants, subconsultants or subcontractors.
- B. CITY agrees to indemnify, hold harmless and defend OWNER and each officer, director, shareholder, employee or affiliate of OWNER, from any and all Claims that arise directly from any CITY default under this Agreement or the active negligence or willful misconduct by CITY or its authorized agents, employees, contractors, consultants, subconsultants or subcontractors in the performance of the Project, excepting therefrom any Claims to the extent arising from the negligence or willful misconduct of OWNER, STATE or their respective authorized agents, employees, contractors, consultants, subconsultants or subcontractors.
- C. OWNER and CITY hereby agree that the foregoing indemnity obligations shall not include indirect, consequential, punitive, special or exemplary damages, and each party hereby waives any right to assert the same.

## VII. GENERAL CONDITIONS

- A. All costs accrued by OWNER as a result of CITY's request of January 11, 2006 to review, study and/or prepare the Plans and estimates for the Work associated with this Agreement may be billed pursuant to the terms and conditions of this Agreement.

- B. If CITY's Project is canceled or modified so as to eliminate the necessity of the Work by OWNER, CITY will notify OWNER in writing and CITY reserves the right to terminate this Agreement. On termination, CITY shall pay OWNER for costs accrued up through the date of termination.
- C. OWNER shall submit a Notice of Completion to CITY within thirty (30) days of the completion of the Work described herein.
- D. The parties understand that Highway 101 is a federal aid highway and accordingly 23 CFR 645 is hereby incorporated into this Agreement.
- E. The estimated cost of the Work is \$530,263.
- F. The estimated cost to OWNER for its share of the Work is \$265,131.50.
- G. The estimated cost to CITY for its share of the Work is \$265,131.50, less fifty percent (50%) of the actual cost of the Block Work.
- H. Either party may waive the satisfaction or performance of any terms or conditions of this Agreement that have been included in this Agreement for its benefit, so long as such waiver is in writing, specifies the waived term or condition and is delivered to the other party.
- I. All notices under this Agreement shall be in writing and shall be effective upon actual receipt, and shall be delivered by (a) personal delivery, (b) legible facsimile, provided that the sender receives confirmation of transmission, (c) reputable overnight courier, (d) United States registered or certified mail, return receipt requested, postage prepaid, or (e) email, provided that such email is followed within one (1) day with delivery by one of the other methods set forth in this Section VII.I, in each case address as follows:

If to OWNER:                      Southern California Gas Company  
   9400 Oakdale Ave  
   Chatsworth, CA 91311-6511  
   Attention: P. J. Martin  
   Telephone: (818) 701-4516  
   Facsimile: (818) 701-3380  
   Email: PMartin@semprautilities.com

With a copy to:                      Sempra Energy  
   101 Ash Street  
   San Diego, California 92101  
   Attention: Commercial Law Department  
   Telephone: 619-696-4344  
   Facsimile: 619-696-4377  
   Email: [mlewis@sempra.com](mailto:mlewis@sempra.com)

If to CITY:                   Development Services Department  
  Transportation Planning  
  Attention: Cynthia Daniels, Project Manager  
  214 South C Street, Room 307  
  Oxnard, CA 93030  
  Telephone: (805) 385-7871  
  Facsimile: (805) 385-3954  
  Email: Cynthia.daniels@ci.oxnard.ca.us

With a copy to:               City Attorney's Office  
  300 West Third Street  
  Oxnard CA 93030  
  Telephone: (805) 385-7483  
  Facsimile: (805) 385-7423

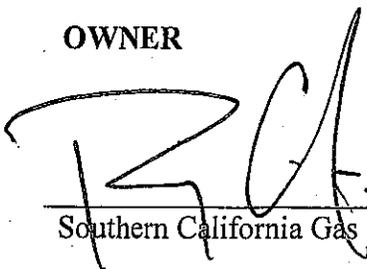
- J.     This Agreement may be amended only by written agreement signed by both of the parties.
- K.     Time and each of the terms and conditions of this Agreement are hereby expressly made of the essence.
- L.     This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement.
- M.     This Agreement shall be governed by the laws of the State of California, without reference to its choice of law provisions.
- N.     This Agreement supersedes any and all oral or written agreements between the parties regarding the Work, other than the agreements described in Section II.A above, which are prior in time to this Agreement. Neither party shall be bound by any prior understanding, agreement, promise, representation or stipulation, express or implied, not specified herein.
- O.     The parties agree to execute all documents and instruments reasonably required in order to consummate the transactions contemplated in this Agreement.
- P.     The language in all parts of this Agreement shall be in all cases construed simply according to its fair meaning and not strictly for or against either of the parties. The language of this Agreement and all documents and instruments referred to in this Agreement have been prepared, examined, negotiated and revised by each party and its legal counsel, and no inference shall be drawn and no provision shall be construed against any party by virtue of the purported identity of the drafter of this Agreement. The section headings of this Agreement are for purposes of reference only and shall not be used for limiting or interpreting the meaning of any section of this Agreement. When required by the context, whenever the singular is used in this Agreement, the same shall include the plural, and the plural shall include the singular, the masculine gender shall include the feminine and neuter genders, and vice versa.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

**CITY OF OXNARD:**

**OWNER**

\_\_\_\_\_  
Dr. Thomas E. Holden, Mayor

  
\_\_\_\_\_  
Southern California Gas Company

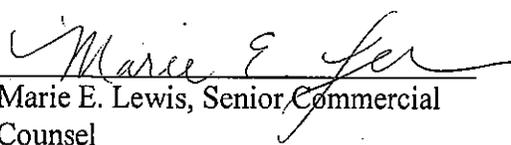
ATTEST:

\_\_\_\_\_  
Daniel Martinez, City Clerk

APPROVED AS TO FORM:

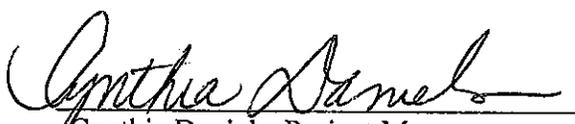
APPROVED AS TO LEGAL FORM:

  
\_\_\_\_\_  
Alan Holmberg, City Attorney

  
\_\_\_\_\_  
Marie E. Lewis, Senior Commercial  
Counsel

APPROVED AS TO CONTENT:

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Cynthia Daniels, Project Manager

\_\_\_\_\_

APPROVED AS TO INSURANCE:

---

James Cameron, Risk Manager

**INSURANCE REQUIREMENTS FOR CONSTRUCTION PROJECTS  
(WITH BUILDER'S RISK REQUIREMENT)**

1. OWNER 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 OWNER, its agent, representatives, employees or subcontractors.

a. Commercial General Liability Insurance, including a Contractual Liability Endorsement, in an amount not less than \$2,000,000 combined single limit for bodily injury and property damage for each claimant for general liability with coverage equivalent to Insurance Services Office Commercial General Liability Coverage (Occurrence Form CG0001ED, November 1988). 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 CA000T, ED June 1992) 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 OWNER 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. Course of Construction Insurance providing coverage for "all risks" of loss in an amount not less than the completed value of the project, with City named as Owner and Insured.

e. 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.

2. OWNER shall, prior to performance of any services, file with the Risk Manager certificates of insurance with original endorsements effecting coverage required by this Exhibit INS-E. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on the attached forms or on other forms approved by the Risk Manager. All certificates and endorsements are to be received and approved by the Risk Manager before work commences. City reserves the right to require complete certified copies of all required insurance policies at any time. The certificates of insurance and endorsements shall be forwarded to the Risk Manager, addressed as follows:

City of Oxnard  
Risk Manager  
Reference No. A-6897  
300 West Third Street, Suite 302  
Oxnard, California 93030

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

4. OWNER 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 OWNER; products and completed operations of OWNER; premises owned, occupied or used by OWNER; or automobiles owned, leased, hired or borrowed by OWNER. The coverage shall contain no special limitations on the scope of protection afforded to City, its City Council, officers, employees and volunteers. **The General Liability Special Endorsement Form and Automobile Liability Special Endorsement Form attached to this Exhibit INS-E or substitute forms containing the same information and acceptable to the Risk Manager shall be used to provide the endorsements.**

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. Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its City Council, officers, employees and volunteers. The insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

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

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

# INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

## *Certificates of Insurance*

The sample accord form on the following page is provided to facilitate your preparation and submission of certificates of insurance. You may use this or any industry form that shows coverage as broad as that shown on the attached sample. **Please note the certificate holder address must be as shown on the attached sample accord form with the contract number and insurance exhibit identification information completed.** Improperly addressed certificates may delay the contract start-up date because the City's practice is to return unidentifiable insurance certificates to the insured for clarification as to the contract number.

## *Endorsement Forms*

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

INS-E.WPD

# ACCORD 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 <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input checked="" type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR. <input checked="" type="checkbox"/> OWNER'S & OWNER'S PROT.				GENERAL AGGREGATE \$2,000,000 PRODUCTS COMP/OP AGG. \$2,000,000 PERSONAL & ADV. INJURY \$2,000,000 EACH OCCURRENCE \$2,000,000 FIRE DAMAGE (Any one fire) \$ MED. EXPENSE (Any one person) \$
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS GARAGE LIABILITY				COMBINED SINGLE LIMIT \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE \$
A	EXCESS LIABILITY UMBRELLA FORM OTHER THAN UMBRELLA FORM				EACH OCCURRENCE \$ AGGREGATE \$
A	WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY				STATUTORY LIMITS EACH ACCIDENT \$1,000,000 DISEASE-POLICY LIMIT \$1,000,000 DISEASE-EACH EMPLOYEE \$1,000,000
A	OTHER Errors and omissions insurance or malpractice insurance available for the insured's profession; if architectural, engineering or electrical work will be performed under the Contract, Course of Construction Insurance				Minimum coverage \$1,000,000 Each consultant/ & listed sub-consultant \$500,000 Course of Construction Completed Value of Project

SAMPLE

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

CERTIFICATE HOLDER  
City of Oxnard  
Attn: Risk Manager  
Reference No. A-68976844  
300 W. 3rd Street, Suite 302  
Oxnard CA 93030

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



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

**SUBMIT IN DUPLICATE**

ENDORSEMENT NO. \_\_\_\_\_

ISSUE DATE (MM/DD/YY) \_\_\_\_\_

PRODUCER

**POLICY INFORMATION:**

Insurance Company: \_\_\_\_\_

Policy No.: \_\_\_\_\_

Policy Period: (from) \_\_\_\_\_ (to) \_\_\_\_\_

LOSS ADJUSTMENT EXPENSE  Included in Limits  
 In Addition to Limits

Telephone: \_\_\_\_\_

NAMED INSURED

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 operation of 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 CA000T (Ed. 6/92), code ("any auto"); or
  - b. If excess, affords coverage which is at least as broad as the primary insurance form referenced in the preceding section (1).

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

**ENDORSEMENT HOLDER**

CITY OF OXNARD

Attn: Risk Manager

Reference No. A-68976844

300 W. 3rd Street, Suite 302

Oxnard, CA 93030

**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 \_\_\_\_\_