DATE: December 13, 2017

TO: City Council

THROUGH: Greg Nyhoff
City Manager

FROM: Jim Throop
Chief Financial Officer

SUBJECT: Urgent Request for Assessment District and Other Contract Amendments (5/10/5)

CONTACT: Jim Throop, Chief Financial Officer
Jim.Throop@oxnard.org, 385-7475

RECOMMENDATION:

That City Council:
1. Authorize the City Manager to immediately terminate all City agreements with Kaneko Landscaping, Inc. (Kaneko);
2. Authorize the City Manager to award and execute an amendment to the agreement with Garcia’s Landscape Maintenance (Garcia’s) in order to:
   a) Add new districts/projects to Garcia’s agreement;
   b) Adjust the levels of service based upon negotiated rates; and
   c) Amend the rates per district/project in accordance with, at most, Garcia’s bid rates.
3. Approve a resolution creating a one-time exemption from Resolution No. 13,932’s requirement to obtain three (3) price quotations for trade services and authorizing the City Manager to award—for the purposes of providing a) landscape maintenance services to the Waterways Assessment District and b) any other services under any other Kaneko agreement(s) in which no bidding information is available—an agreement or amendment to an existing agreement for up to six (6) months to any licensed company.
4. Approve a budget appropriation in the amount of $13,827 for the current Fiscal Year 2017-18 from fund balance of two Landscape Maintenance Districts for landscape maintenance costs exceeding the current approved budget amount.

BACKGROUND
On Friday, December 1, 2017, we received news that the owner of Kaneko Landscaping, Inc. (Kaneko) passed away unexpectedly. As a result, Kaneko is unable to conduct business with the City until further notice.

Kaneko currently has contracts to maintain 37 landscape maintenance districts (LMDs), the Waterways Assessment District and possibly several other City contracts. Because maintenance services have ended abruptly, the City needs to move quickly to find a new contractor to take over those maintenance responsibilities.

The LMDs were bid out in May 2017. The second lowest bidder was Garcia’s Landscape Maintenance, Inc. (Garcia’s). City staff have met with Garcia’s, discussed the needs within the districts and initiated negotiations of pricing below or at Garcia’s bid rates. Garcia’s is hiring staff and gearing up in order to take on the additional responsibilities.

The Waterways Assessment District has not been bid out since 2015, and there is no bidding information available. In order to allow staff time to properly bid out this District, City staff is asking for a one-time exemption from the bidding requirement to award a six (6) month agreement during which time staff will property bid out the property. Since that requirement is in Resolution Number 13,932, staff proposes the Council pass the attached resolution for this exemption.

Finally, as staff discovers more Kaneko contracts, if they exist, we need authorization to transfer that work to the second lowest bidder if known and possible, and if not, to a responsible company for up to six (6) months while staff initiates the bidding process.

All such contracts and amendments will be awarded and executed by the City Manager and approved as to form by the City Attorney. If the Council desires, staff can update the Council in three to six months as to the status of this situation.

**FINANCIAL IMPACT**

All costs associated with these agreements will be charged to the LMDs. Two Districts require a budget appropriation from available fund balances as the new contract costs exceed the current adopted budget. Greystone #23 requires an additional $1,017 and Cameron Ranch #49 requires an additional $12,810 per the attached budget appropriation (Attachment C). All remaining districts funding is within the current adopted Fiscal Year 2017-18 budget.

**ATTACHMENTS:**
Attachment A: Resolution for bidding exemption

Attachment B: Resolution No. 13932

Attachment C: Budget Appropriation
RESOLUTION NO. ___

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD CREATING A ONE-TIME EXEMPTION FROM RESOLUTION NO. 13,932’S REQUIREMENT TO OBTAIN THREE (3) PRICE QUOTATIONS FOR TRADE SERVICES AND AUTHORIZING THE CITY MANAGER TO AWARD—FOR THE PURPOSES OF PROVIDING a) LANDSCAPE MAINTENANCE SERVICES TO THE WATERWAYS ASSESSMENT DISTRICT AND b) ANY OTHER SERVICES UNDER ANY OTHER KANEKO AGREEMENT(S) IN WHICH NO BIDDING INFORMATION IS AVAILABLE—AN AGREEMENT OR AMENDMENT TO AN EXISTING AGREEMENT FOR UP TO SIX (6) MONTHS TO ANY LICENSED COMPANY

THE CITY COUNCIL OF THE CITY OF OXNARD HEREBY FINDS, DETERMINES, RESOLVES AND ORDERS AS FOLLOWS:

WHEREAS, Section 2(b) of City Council Resolution No. 13,932 requires City staff to obtain price quotations from three (3) vendors before entering into an agreement for trade services, which includes landscape maintenance;

WHEREAS, the City entered into Agreement Nos. 7059-15-CM and 7060-15-CM with Kaneko Landscaping Services, Inc. (“Kaneko”), which agreements have since been amended to expire on June 30, 2018, for the purposes of providing landscape maintenance services to the Waterways Assessment District (“District”);

WHEREAS, City staff was notified on December 1, 2017, that due to an emergency, Kaneko will no longer be able to maintain the District or otherwise work for the City, effective immediately;

WHEREAS, the City is amending an existing agreement with Garcia’s Landscape Maintenance, Inc. (“Garcia’s”) to transfer the landscape maintenance districts (“LMDs”) that were also maintained by Kaneko since Garcia’s was the second lowest bidder for those LMDs;

WHEREAS, the City does not have bid documentation for landscape maintenance of the District and possibly regarding other Kaneko services, so the City is obligated under Resolution No. 13,932 to obtain three (3) price quotations for each such project or services;

WHEREAS, City staff is still searching for any other Kaneko agreements;

WHEREAS, the City does not wish to allow the District and possibly other City landscape maintenance projects to be neglected for the period of time it takes to prepare bid packets, advertise, allow a fair time for bidders to prepare their bids, review the bids, prepare agreements and come before the Council to award those agreements; and
WHEREAS, due to the urgency of the situation, the City Council now wishes to exempt City staff from the requirement of bidding for landscape maintenance at the District and under any other Kaneko agreement(s) and instead award the work for up to six (6) months to a licensed company while staff bids for further landscape maintenance services.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL AS FOLLOWS:

Section 1: The Council hereby finds and determines that the foregoing recitals are true and correct.

Section 2: The City Council now wishes to exempt City staff from Resolution Number 13,932’s requirement to obtain three (3) price quotations for trade services formerly handled by Kaneko through agreements with the City. This is a one-time exemption.

Section 3: The City Manager is hereby authorized to award—for the purposes of providing a) landscape maintenance services to the District and b) any other services under any other Kaneko agreement(s) in which no bidding information is available—an agreement or amendment to an existing agreement for up to six (6) months to any licensed company, during which time City staff shall bid for further landscape maintenance services.

Section 4: This Resolution shall take effect immediately upon its adoption.

Section 5: The City Clerk shall certify as to the adoption of this Resolution.

PASSED, APPROVED and ADOPTED this 13th day of December, 2017, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

_______________________________
Tim Flynn, Mayor

ATTEST: APPROVED AS TO FORM:

Michelle Ascencion, City Clerk
Stephen M. Fischer, City Attorney
CITY COUNCIL OF THE CITY OF Oxnard

RESOLUTION NO. 13-932

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
OXNARD ESTABLISHING PURCHASING PROCEDURES

WHEREAS, on March 8, 1994, the City Council adopted Resolution No. 10,696, adopting purchasing procedures to implement the City's purchasing ordinance; and

WHEREAS, on February 14, 1995, the City Council adopted Resolution No. 10,854, amending the purchasing procedures; and

WHEREAS, on May 2, 2000, the City Council adopted Resolution No. 11,716 amending the purchasing procedures; and

WHEREAS, on March 7, 2006, the City Council adopted Resolution No. 13,014, amending the purchasing procedures; and

WHEREAS, the City Council wishes to further amend the purchasing procedures in their entirety.

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

1. The purchasing procedures attached hereto as Exhibit A and incorporated herein by reference are adopted.

2. Resolution Nos. 10,696 and 10,854, 11,716, and 13,014 are repealed.

PASSED AND ADOPTED this __ day of Nov., 2010 by the following vote:

AYES: Councilmembers Holden, Herrera, Maulhardt, Pinkard, and MacDonald.

NOES: None.

ABSENT: None.

[Signature]
Dr. Thomas E. Holden, Mayor
ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO FORM:

Alan Holmberg, City Attorney
EXHIBIT A

PURCHASING PROCEDURES

Supplies, Equipment and Trade Services

1. Definitions

Definitions of “purchasing agent,” “trade services,” “professional services,” “services” and “certain professional services” are contained in sections 4-1(B), 4-30(A), 4-30(B) and 4-41 of the city code, respectively. For purposes of this resolution, the following additional definition shall apply:

a. "Purchase" includes acquisition by the city or transfer to the city by purchase, lease, lease-purchase, trade or any other method involving the expenditure of money, the relinquishment of property or the creation of debt.

b. "Supplies" and "equipment" are personal property bought, sold or used for and by the city.

2. Purchase of supplies, equipment and trade services

a. City staff may purchase supplies, equipment and trade services costing $2,500 or less and need not obtain bids therefore.

b. After obtaining price quotations from three vendors, city staff may request the purchasing agent to purchase supplies, equipment and trade services costing from $2,500.01 to $25,000.

c. Without complying with the foregoing subsections (a) through (e) of this section 2, city staff and the purchasing agent, as designated by subsections (a) through (e) of this section 2, may purchase supplies, equipment and trade services in cooperation with other public entities by entering into contracts made available through the auspices of another public entity that has complied with its own procedures for making such purchase, provided, however, that if the amount of the purchase exceeds $25,000, the purchasing agent shall first obtain City Council approval of the purchase.

d. If the supplies, equipment or trade services to be purchased can be obtained from only one source, bids or price quotations are not required.

e. City staff and the purchasing agent shall not split or separate purchases into smaller purchases in order to evade the provisions of this resolution.
f. All purchases of supplies, equipment or trade services shall be made by written purchase order, contract or lease, in a form approved by the city attorney, and any amendments thereto or termination thereof shall be in writing in a form approved by the city attorney. Amendments and terminations of purchase orders, contracts and leases may be executed by the persons authorized to execute the purchase orders, contracts and leases; provided, however that such purchase orders, contracts and leases may not be amended to extend the term for more than three years, including the original term.

g. The purchasing agent is authorized to execute purchase orders, contracts and leases for supplies and equipment and contracts for trade services if the amount of the purchase order, contract or lease does not exceed $25,000. The purchasing agent is authorized to execute amendments to purchase orders, contracts and leases for supplies authorized to execute amendments to purchase orders, contracts and leases for supplies and equipment or trade services if the combined amount of the purchase order, contract or lease and the amendment and all previous amendments thereto does not exceed $25,000.

h. Purchase orders, contracts and leases for supplies and equipment and contracts for trade services in an amount over $25,000, and amendments thereto for which the combined amount of the purchase order, contract or lease and the amendment and all previous amendments thereto exceeds $25,000, shall be placed on a city council agenda for approval and execution. In addition, if an executed contract contains a scope of services or line items detailing the cost of particular supplies, equipment or services and any change in such scope of services or line items exceeding $25,000 shall be placed on a City Council agenda for approval.

i. If the city council is not in session and there is an immediate need for execution of a purchase order, contract or lease or amendment thereto referred to in subsection h above, the purchase order, contract or lease or amendment thereto may be executed jointly by the city manager and the highest-ranking available member of the city council. The city manager shall place the jointly executed document on the agenda for ratification at the next regular city council meeting occurring more than five days after execution. All purchase orders, contracts or leases or amendments thereto that are executed jointly shall contain a provision that the document will automatically terminate on the date that ratification is denied.

Professional Services and Certain Professional Services

a. On the request of city staff, the purchasing agent may purchase professional services and certain professional services and execute contracts therefore and amendments thereto and terminations thereof. Contracts for professional
services and certain professional services in an amount over $25,000, and amendments thereto for which the combined amount of the contract and the amendment and all previous amendments thereto exceeds $25,000, shall be placed on a city council agenda for approval and execution. If an executed contract contains a scope of services or line of items detailing the cost of particular services, any change in such services or line items exceeding $25,000 shall be placed on a city council agenda for approval. If the city council is not in session and there is an immediate need for execution of such a contract or amendment, the contract or amendment may be executed jointly by the city manager and the highest-ranking available member of the city council. The city manager shall place the jointly executed document on the agenda for ratification at the next regular city council meeting occurring more than five days after execution. All contracts or amendments thereto that are executed jointly shall contain a provision that the document will automatically terminated on the date that ratification is denied.

b. Every purchase of professional services or certain professional services shall be by written contract in a form approved by the city attorney, and every amendment thereto and termination thereof shall be in writing in a form approved by the city attorney.

Compliance with Procedures

Failure of city staff of the purchasing agent to comply with the procedures established by this resolution shall be grounds for disciplinary action and for loss of the privilege to make purchases on behalf of the City.
REQUEST FOR BUDGET APPROPRIATION

Due to contractor death, the current LMD contract is being transferred to the second lowest bidder, Garcia's and as a result of higher prices, additional funds are needed exceeding the current year adopted FY 17-18 budget.

<table>
<thead>
<tr>
<th>Accounts and Descriptions</th>
<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fund: Greystone - LMD 23 (143)</td>
<td></td>
</tr>
<tr>
<td>Expenditures/Transfers Out</td>
<td></td>
</tr>
<tr>
<td>STREET LANDSCAPING (5702)</td>
<td></td>
</tr>
<tr>
<td>143-5702-805.82-09 CONTRACTS AND SERVICES/OTHER-PROF</td>
<td>1,017</td>
</tr>
<tr>
<td>Sub-total Revenues</td>
<td>1,017</td>
</tr>
<tr>
<td>Net Change to Fund Balance</td>
<td>(1,017)</td>
</tr>
</tbody>
</table>

| Fund: Cameron Ranch - LMD 49 (170-8006) |        |
| Expenditures/Transfers Out |        |
| STREET LANDSCAPING (5702) |        |
| 170-8006-899.82-09 CONTRACTS AND SERVICES/OTHER-PROF | 12,810 |
| Sub-total Revenues | 12,810 |
| Net Change to Fund Balance | (12,810) |
| Net Appropriation Change | (13,827) |

Approvals

- Department Director
- Chief Financial Officer
- City Manager