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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF VENTURA

PHILLIP MOLINA, In His Capacity as Treasurer of the City of Oxnard, Petitioner, v. ALEXANDER NGUYEN, In His Capacity as City Manager of the City of Oxnard; CITY OF OXNARD, a California General Law Municipality; and DOES 1 through 10, Inclusive, Respondents.	CASE NO. 56-2020-00541689-CU-PT-VTA Complaint Filed: June 2, 2020 Assigned to: Hon. Mark S. Borrell Trial Date: **VERIFIED PETITION FOR WRIT OF MANDATE** **(Code of Civil Proc. § 1085)**

Petitioner PHILLIP MOLINA, In His Capacity as the Elected City Treasurer of the City of Oxnard, hereby petitions this court for a peremptory writ of mandate or an alternative writ of mandate under Code of Civil Procedure section 1085, directed to Respondents ALEXANDER NGUYEN, In His Capacity as City Manager of the City of Oxnard; CITY OF OXNARD, a California General Law Municipality; and DOES 1 through 10, Inclusive, to prohibit enforcement of recently enacted Municipal Ordinance No. 2977, Resolution No. 15,324 and Resolution No. 15, 325,which violate the California Constitution, Article 11, Section 7, and the California

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Government Code, section 37100, by unlawfully interfering with the statutory duties of the elected City Treasurer of the City of Oxnard.

THE PARTIES

1. Petitioner PHILLIP MOLINA is an adult residing in the City of Oxnard, County of Ventura, and is the elected City Treasurer of the City of Oxnard, California.

2. Respondent ALEXANDER NGUYEN is an adult employed as the appointed City Manager for the City of Oxnard, California.

3. Respondent CITY OF OXNARD is an municipal corporation located in the County of Ventura organized as a General Law City pursuant to the California Constitution and the California Government Code.

4. Petitioner is ignorant of the true names and capacities of Respondents sued herein as Does 1-10, inclusive, and therefore sues these Respondents by such fictitious names. Petitioner will amend this Petition to allege their true capacities when ascertained. Petitioner is informed and believes and thereon alleges that each of the fictitiously named Respondents is responsible in some manner for the occurrences herein alleged, and that at all time mentioned herein each Respondent, including Does 1-10, was acting as the agent of each other Respondent in doing the things alleged, and was acting within the course and scope of such agency with the knowledge and consent or ratification of each other Respondent in doing the things alleged herein.

STATEMENT OF FACTS

5. Petitioner is the elected City Treasurer of the City of Oxnard. He is serving his first four-year term as City Treasurer after being elected to the position in November, 2016.

6. Respondent the City of Oxnard is a municipal corporation organized as a General Law City. As such, Oxnard may not enact any Municipal Ordinance or Resolution which conflicts with California State Law. This limitation on the legislative rights of the Oxnard City Council to enact municipal law is both constitutional (Cal. Const. Art. 11, § 7) and statutory (Govt. Code, § 37100).

7. The City Treasurer position is one of the statutory officials in whom the government is vested of a General Law City. (Govt. Code, § 36501.)

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8. The City Treasurer of a General Law City can be changed from an elected official to an appointed official only by a vote of the city's electorate. An elected City Treasurer serves a four-year term of office. An appointed City Treasurer serves at the pleasure of the City Council. (Govt. Code, § 36510.)

9. The statutory duties of the City Treasurer are set forth in a number of statutes within the Government Code, including Government Code sections 41001-41007. These statutes incorporate into law the general design of municipal government which creates the independent office of the city treasurer with important duties to safeguard the financial condition of the municipality. A General Law City cannot act to destroy that independent office by eliminating and/or assigning to appointed personnel the city treasurer's statutory duties to safeguard the financial condition of the city.

10. In accordance with the applicable Government Code sections, the statutory duties of the elected City Treasurer include cash management; maintaining proper internal controls of the City's treasury in accordance with general principles of accounting and applicable California State Law and City of Oxnard Municipal Ordinances; approving disbursements of treasury funds after verifying the accuracy and legitimacy of the requested disbursements; controlling the City's accounts at financial institutions and ensuring that sufficient funds are in the accounts to satisfy expenditures; investing idle cash in pooled accounts; and preparing a monthly report for the City Council and quarterly reports on the pooled accounts.

11. The statutory duties and responsibilities of the elected City Treasurer cannot be abrogated or reassigned by the City Manager or the City Council to an appointed official without violating State Law. Unlike an appointed Treasurer, Petitioner, as the elected City Treasurer, does not serve at the pleasure of the City Council or City Manager. The City Council cannot change the Treasurer from an elected to an appointed position without a vote of the electorate.

12. Respondent ALEXANDER NGUYEN is the current City Manager of the City of Oxnard, an appointed official serving at the pleasure of the Oxnard City Council. He began serving in that position on July 9, 2018. Beginning shortly after assuming the City Manager position, NGUYEN has interfered with the performance of Petitioner's statutory duties as the

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elected City Treasurer. The City Manager apparently considers Petitioner's resistance to his interference as insubordination. In addition, based on information and belief, NGUYEN considers Petitioner a potential threat to the City of Oxnard because of a lawsuit for wrongful termination filed against the City of Oxnard by Petitioner related to his employment as the Director of Finance from 1997-1999. Petitioner ultimately received a settlement in the amount of $875,000.00 from the City of Oxnard as compensation for retaliation due to whistle-blowing activities by Petitioner against very corrupt former City of Oxnard officials.

13. Respondent NGUYEN has taken an ongoing series of actions against Petitioner throughout Respondent's tenure as the City Manager. Petitioner is the only member of Oxnard's upper management who has been barred by NGUYEN from attending the regular meetings of the Senior Leadership Team.

14. On September 10, 2019, Petitioner received a Memo from NGUYEN stating that the City would be conducting an investigation for alleged behavior of Petitioner which violated City personnel policies. NGUYEN claimed two female staff members, neither of whom works in the Treasury Department, made complaints about Petitioner's conduct. The specifics of these complaints were not identified in the Memo.

15. This "investigation" started an avalanche of actions taken against Petitioner by NGUYEN. Petitioner's City e-mail account was suspended. He was moved out of his office in the Treasury Department to a building across the street where none of the Treasury Department staff work and none of the Treasury Department cash handling functions take place. All of Petitioner's administrative duties were arbitrarily removed by NGUYEN. An out of town attorney by the name of Jorge Luna was hired to conduct a workplace investigation. Petitioner spent four hours being interviewed by Mr. Luna, most of which had no connection to the alleged complaints of staff. Most of the interview consisted of interrogating Petitioner on how he performed his statutory duties. On the advise of counsel, Petitioner declined a second interview since the City Attorney refused to provide any information about the subject matter for a second interview.

16. Mr. Luna prepared an 83-page report of his "investigation." Petitioner was provided with a redacted copy of the report which excluded the names of the witnesses interviewed

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by Mr. Luna and excluded the exhibits which included transcripts of those interviews. The investigation concluded that Petitioner interfered with the investigation, made inappropriate comments concerning female employee's appearance/attire, improperly investigated an employee for theft, engaged in "keyboard warfare," and exceeded the scope of his duties by "weighing in" on procurements and "injecting" himself into accounting issues.

17. The investigation also concluded that Petitioner did *not* exceed the scope of his duties by reviewing the accounts payable register of checks, including checks from the Public Works and Finance Departments, and holding checks that lacked sufficient funding or supporting documentation.

18. The City refuses to provide Petitioner with any type of due process and an opportunity for a fair hearing. Petitioner has been found guilty as charged based on secret testimony given by unnamed witnesses to an attorney collecting six figures in fees for his firm paid by the City of Oxnard taxpayers.

19. Within the context of this ongoing vendetta against Petitioner by the City Manager and his unlawful interference with Petitioner's ability to perform his statutory duties, on May 5, 2020, the City Council approved an Ordinance and two Resolutions which unlawfully removed *all* of the City Treasurer's statutory duties with the exception of overseeing the City's investments. Based on information and belief, at the behest of NGUYEN, the City Council assigned almost all of the City Treasurer's statutory duties to employees appointed by the City Manager. These legislative actions transformed the elected Treasurer into a defacto appointed Treasurer in violation of the State Constitution and the Government Code.

20. On or about April 24, 2020, the City of Oxnard published the City Council Agenda Report for the City Council meeting scheduled for May 5, 2020. Agenda Item No. M.1 was written by City Attorney Stephen Fischer and the Subject is described as:

> "Amendment of City Treasurer Functions; Persons Authorized to Sign Financial Instruments and Initiate Electronic Bank Transactions; Oversight of Payroll Functions; and Adjustment of Future Benefits and Compensation of the Office of City Treasurer Beginning in December 2020."

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21. The Agenda Report for Agenda Item No. M-1 begins with a summary of the "investigation" and the report of the "independent investigator" which are discussed above. The end of that Background section concludes by stating, in **bold**, that "**Had this been any other manager, at any level, he or she would have been fired.**" The Agenda Report then provides a skewed analysis of the proposed changes to City of Oxnard law in a Discussion section by claiming that the changes would limit the City Treasurer to "specific statutory duties related to particular financial matters such as deposit of City funds and investing such funds (to the extent the City Council renews the annual delegation of investment authority)." In fact, the proposed changes would interfere with and prevent Petitioner from performing the City Treasurer's most important statutory duties by reassigning vital, internal control functions to appointed City staff, eliminate the City Treasurer's Department and staff, and remove Petitioner entirely from procedures designed to have City payments approved by an independent treasurer elected by the citizens of Oxnard. Significantly, the Agenda Report did not include a single claim that Petitioner's performance of the Treasurer's statutory duties was in any way deficient or not in compliance with any of the generally accepted accounting principles as established by the Governmental Accounting Standards Board or proper internal controls of the City of Oxnard's treasury.

22. The City Council adopted Agenda Item No. M.1., by votes of 7-0 on the proposed Ordinance and one of the two proposed Resolutions, and a vote of 6-1 on a second proposed Resolution concerning a reduction in the Treasurer's salary.

23. The City Council approved an Ordinance consisting of twenty changes to existing Municipal Codes. Each of the changes is identified by a "Section" number. The new Ordinance was subsequently assigned No. 2977. A true and correct copy of Ordinance No. 2977 is attached hereto as Exhibit 1.

24. The City Council approved a Resolution with seven changes to City law including adopting protocols for signing and endorsing checks and for initiating and approving electronic bank transactions which eliminated the involvement of the elected City Treasurer. This Resolution became effective immediately at the time of adoption. It was subsequently assigned No. 15,324. Resolution No. 15,324, repealed Resolution No. 10, 456 adopted on September 15, 1992.

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Resolution 15, 324 also amended Resolution 10,820, by changing the title and deleting pages 2 and 3 of Exhibit B (City Treasurer) to Resolution 10, 820 concerning the Administrative Duties and Qualifications - Administrative Duties. True and correct copies of Resolution No. 15,324 (with "15,324" written by counsel for Petitioner for ease of identification), Resolution No. 10,456, and Resolution No. 10,820 and Exhibit B are collectively attached hereto as Exhibit 2.

25. The elimination of the City Treasurer's so-called administrative duties by Resolution 15,324 infringed on and interfered with the City Treasurer's statutory duties since many of the "administrative duties" are intertwined with and indistinguishable from statutory duties. Respondents expansively interpret the administrative duties and narrowly define the statutory duties in order to justify the City Manager's assertion of near total control of the City's Treasurer and treasury. The blanket elimination of the elected City Treasurer's so-called administrative duties represents an unlawful interference by Respondent City of Oxnard with the elected City Treasurer's right and duty to perform his or her statutory duties.

26. The City Council approved a second Resolution which drastically reduces the City Treasurer's salary which goes into effect after completion of Petitioner's current term. The City Council approved Resolution No. 15,325 which reduces the salary of the elected City Treasurer from the current salary range of $114,656.88 to $157,652.98, to a salary of $20,412.08. Although the new salary does not take effect until completion of Petitioner's current term, it demonstrates that Respondents intend to diminish and devalue the position of elected City Treasurer not only functionally, but also financially. As such, Resolution No. 15,325 represents an abuse of legislative discretion and an unlawful interference with the ability of the elected City Treasurer to perform his or her statutory duties by failing to provide the Treasurer with reasonable and fair compensation for performance of those duties. A true and correct copy of Resolution 15,325 (with "15,325" written by counsel for Petitioner for ease of identification) is attached hereto as Exhibit 3.

FIRST CAUSE OF ACTION

WRIT OF MANDATE - CODE OF CIVIL PROCEDURE SECTION 1085

27. Petitioner refers to and realleges all of the above paragraphs and by this reference incorporates those paragraphs as though fully set forth herein.

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28. Petitioner, as the elected City Treasurer of the City of Oxnard, has the right and duty to perform the statutory duties assigned to a city treasurer by Government Code sections 41001 - 41007, and other Government Code sections which detail the obligations and authority of a city treasurer to protect, safeguard and audit the city's treasury. This includes the right and duty to accept all deposits into the treasury, collect licensing fees, review and audit all expenditures. It is the treasurer's statutory responsibility to implement internal controls and procedures as are necessary and appropriate to safeguard against unauthorized expenditures, fraud, misappropriation of public funds and other similar actions which can, and unfortunately do occur when public funds are collected and distributed by negligent or unscrupulous individuals with access to the treasury.

29. The recently enacted Ordinance No. 2977, Resolution No. 15,324 and Resolution No. 15,325 have the effect of reassigning important, non-delegable statutory duties of the City Treasurer to lower level officials appointed by and serving at the pleasure of Respondents. These changes to existing municipal law essentially eliminate the position of the elected City Treasurer as a functioning member of the City's governance and transform the Treasurer into an appointed figurehead without the mandatory vote of the electorate to eliminate the treasurer as an elected official. The drastic reduction in the next Treasurer's salary further interferes with the ability of an elected Treasurer to perform his or her statutory duties and therefore has the effect of violating state laws which establish an independent Treasurer as one of the officials in whom the governance of a general law city is vested.

30. Enforcement of Ordinance No. 2977, Resolution No. 15,324 and Resolution No. 15,325, would violate the State Constitution and Government Code prohibition on municipal corporations from enacting legislation which conflicts with State Law. These changes to the existing municipal law of the City of Oxnard directly conflict with and therefore are preempted by the Government Code sections which establish the duties of a city treasurer for municipalities in general, and in particular, for a general law city with an elected treasurer.

31. Petitioner, as the current elected City Treasurer, has a beneficial interest in the outcome of these proceedings over and above the interest held in common with the public at large and the citizens of the City of Oxnard.

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32. Petitioner does not have a plain, speedy and adequate remedy in the ordinary course of law, other than the relief sought in this Petition.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully prays that the court enter judgment against Respondents as follows:

1. That the court issue a peremptory writ in the first instance commanding Respondents to vacate immediately and not to enforce Ordinance No. 2977, Resolution No. 15,324 and Resolution No. 15,325; or

2. That the court, alternatively, first issue an alternative writ commanding Respondents to vacate immediately and not to enforce Ordinance No. 2977, Resolution No. 15,324 and Resolution No. 15,325 or, in the alternative, show cause why it has not done so and why a peremptory writ should not issue;

3. Attorneys fees incurred by Petitioner to bring this Verified Petition and all related actions and proceedings including, but not limited to, the Verified Petition for TRO, pursuant to Code of Civil Procedure section 1021.5; and

4. For costs of this proceeding and for such other and further relief as the court deems just and proper.

DATED: 6/2, 2020

NORMAN DOWLER, LLP

By: _____
Andrew H. Covner
Attorneys for Plaintiff PHILLIP MOLINA

VERIFICATION PAGE FOLLOWS

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VERIFICATION

I, PHILLIP MOLINA, hereby declare and state:

I am the Petitioner herein, and I have read the foregoing Verified Petition for Writ of Mandate and know the contents thereof and the same is true of my personal knowledge, except as to the matters which are therein stated upon my information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED: 6-2-20

Phillip Molina

PHILLIP MOLINA

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EXHIBIT 1

ORDINANCE NO. 2977

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD AMENDING AND ADDING PROVISIONS TO THE CITY CODE TO DESIGNATE THE ASSISTANT CITY TREASURER AS THE "COLLECTOR" OR "LICENSE COLLECTOR" FOR SPECIFIC PERMITTING AND LICENSING FUNCTIONS; AMENDING THE CITY CODE AND ORDINANCE NO. 2350 TO LIMIT CITY TREASURER DUTIES TO THAT POSITION'S STATUTORY DUTIES NOT OTHERWISE ASSIGNED TO THE ASSISTANT CITY TREASURER, AND TO CHANGE CITY TREASURER COMPENSATION AND BENEFITS EFFECTIVE WHEN THE CITY COUNCIL DECLARES THE RESULTS OF THE CANVASS OF THE RETURNS FOR THE NOVEMBER 2020 MUNICIPAL ELECTION; AND ADDING SECTION 2-187 REGARDING PAYROLL FUNCTIONS BEING MANAGED BY THE DIRECTOR OF HUMAN RESOURCES

THE CITY COUNCIL OF THE CITY OF OXNARD DOES ORDAIN AS FOLLOWS:

Section 1. Section 10-1(C) is added to the Oxnard City Code to read as follows:

"(C) LICENSE COLLECTOR - The Assistant City Treasurer or designee."

Section 2. Section 11-1(F) of the Oxnard City Code shall be amended to read as follows:

"(F) COLLECTOR - The Assistant City Treasurer or designee."

Section 3. Section 11-141 of the Oxnard City Code is amended to read as follows:

"Section 11-141. APPLICATIONS

The license collector shall provide each applicant for a dance permit with a form specifying the information required for the permit. The city shall begin processing an application when the completed form, the applicable fee, and documents required are provided to the license collector. For purposes of this article, the Assistant City Treasurer or designee shall be the license collector."

Section 4. Section 11-170(C) is added to the Oxnard City Code to read as follows:

"(C) LICENSE COLLECTOR - The Assistant City Treasurer or designee."

Section 5. Section 11-232(D) of the Oxnard City Code shall be amended to read as follows:

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"(D) LICENSE COLLECTOR - The Assistant City Treasurer or designee."

Section 6. Section 11-261(D) of the Oxnard City Code shall be amended to read as follows:

"(D) LICENSE COLLECTOR - The Assistant City Treasurer or designee."

Section 7. Section 11-370(B) of the Oxnard City Code shall be amended to read as follows:

"(B) COLLECTOR - The Assistant City Treasurer or designee."

Section 8. Section 12-8 is added to the Oxnard City Code to read as follows:

"Section 12-8. DEFINITION OF LICENSE COLLECTOR.

For purposes of this Chapter, "License Collector" shall mean the Assistant City Treasurer or designee."

Section 9. Section 2-165 of the Oxnard City Code regarding the City Treasurer serving as the Department Head and administrative head of the City Treasurer Department is hereby repealed.

Section 10. Section 2-166 of the Oxnard City Code is amended to read as follows:

"Section 2-166. BENEFITS OF CITY TREASURER.

A. Until the City Council declares the results of the canvass of the returns for the November 2020 municipal election, the person occupying the city treasurer classification shall receive the same benefits as that person received as of the effective date of the ordinance that amended this section. Starting with the City Council declaring the results of the canvass of the returns for the November 2020 municipal election and continuing thereafter, the person occupying the city treasurer classification shall receive all benefits provided to the members of the City Council.

B. Notwithstanding the above, a person occupying the classification of city treasurer shall not be entitled to transfer to or be promoted or demoted to any other classification in the city service."

Section 11. Section 2-168 of the Oxnard City Code is amended to read as follows:

"Section 2-168. DUTIES OF CITY TREASURER.

The city treasurer shall perform such statutory duties as are assigned to the city treasurer of a general law city by the laws of the State and which are not assigned to another City employee by ordinance or resolution. Pursuant to Cal. Gov't Code Section 34004, the duties imposed on the city treasurer by Cal. Gov't Code Section 41003 are transferred to the assistant city treasurer."

Section 12. Section 2-169 of the Oxnard City Code is amended to read as follows:

"Section 2-169. COMPENSATION OF CITY TREASURER.

Until the City Council declares the results of the canvass of the returns for the November 2020 municipal election, the person occupying the city treasurer classification shall receive the same compensation as that person received as of the effective date of the ordinance that amended this section. Starting with the City Council declaring the results of the canvass of the returns for the November 2020 municipal election and continuing thereafter, the person occupying the city treasurer classification shall receive such compensation as determined by City Council resolution for that position."

Section 13. Section 2-184 of the Oxnard City Code is amended to read as follows:

"Section 2-184. PROCEDURE FOR PAYMENT OF DEMANDS, WARRANTS AND CHECKS.

The finance director shall prepare a written form of demand and proposed check for each approved invoice and claim. Supporting documents such as the purchase order, and invoice or claim for payment shall be attached thereto. Demands shall be individually audited by the finance director or designee, who shall certify as to the accuracy of each demand and the availability of funds for payment thereof. Such demands may be in the form of check-warrants and when approved by all officers as required by this code, shall be delivered to the assistant city treasurer. The assistant city treasurer shall subscribe a direction to the depository of funds to pay the funds to the order of the payee, which action shall convert the warrant, or demand, to a bona fide check."

Section 14. Section 2-186(B)(2) of the Oxnard City Code is amended to read as follows:

"(2) Such warrants, when presented to the assistant city treasurer, shall be paid by the finance director out of the fund therein designated if there be sufficient money in such fund for that purpose."

Section 15. Part 6 of Ordinance No. 2350 relating to the compensation of the city treasurer for statutory duties is hereby repealed effective as of the date that the City Council declares the results of the canvass of the returns for the November 2020 municipal election. Ordinance No. 2350 was adopted on December 6, 1994.

Section 16. Part 8 of Ordinance No. 2350 relating to the compensation of the city treasurer for administrative duties is hereby repealed effective as of the date that the City Council declares the results of the canvass of the returns for the November 2020 municipal election.

Section 17. Part 9 of Ordinance No. 2350 is hereby amended to read as follows:

"Part 9. The City Council, by resolution, may include the City Clerk classification as part of the management pay for performance system. The inclusion of the City Clerk classification in the management pay for performance system is limited to the evaluation and establishment of compensation of the City Clerk for performance of administrative duties."

Section 18. Part 10(B) of Ordinance No. 2350 is hereby amended to read as follows:

"B. The City Manager will establish the administrative functions of the City Clerk. These administrative functions are in addition to the statutory duties that are mandated by State law to be performed by the person elected as City Clerk in a general law city."

Section 19. Part 10(C) of Ordinance No. 2350 regarding the administrative duties of the City Treasurer is hereby repealed.

Section 20. Section 2-187 is added to the Oxnard City Code to read as follows:

"Section 2-187 - PAYROLL FUNCTIONS MANAGED BY DIRECTOR OF HUMAN RESOURCES.

Notwithstanding any language in this Division 5 to the contrary, the payroll functions of the City of Oxnard shall be delegated to and managed by the Director of Human Resources. The Budget and the General Accounting Divisions of the Finance Department will continue to have 'read-only access' to the payroll database and reports."

Section 21. If any subsection, sentence, clause, phrase or word of the Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed and adopted this Ordinance, and each and all provisions hereof, irrespective of the fact that one or more provisions may be declared invalid.

Section 22. The City Clerk shall certify as to the adoption of this Ordinance and shall cause summary thereof to be published a minimum of five (5) days before the City Council's adoption of the ordinance and within fifteen (15) calendar days of the adoption in a newspaper of general circulation published and circulated in the City; and shall post a certified copy of this Ordinance in the office of the City Clerk, in accordance with Government Code Section 36933. Ordinance No. 2977 was first read on May 5, 2020, and adopted on May 19, 2020 to become effective thirty (30) days thereafter.

PASSED AND ADOPTED this ____ day of May, 2020 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Tim Flynn, Mayor

ATTEST:

_____
Michelle Ascencion, City Clerk

APPROVED AS TO FORM:

_____
Stephen M. Fischer, City Attorney

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EXHIBIT 2

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO. 15,324

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD AUTHORIZING CERTAIN PERSONS TO SIGN AND ENDORSE CHECKS AND DRAFTS AND INITIATE AND APPROVE ELECTRONIC BANK TRANSACTIONS FOR THE CITY OF OXNARD, ASSESSMENT DISTRICTS AND THE OXNARD COMMUNITY DEVELOPMENT COMMISSION SUCCESSOR AGENCY; AND AMENDING THE TITLE AND EXHIBIT B OF RESOLUTION NO. 10,820 REGARDING THE JOB SPECIFICATIONS FOR THE CITY TREASURER

The City Council of the City of Oxnard resolves as follows:

Section 1. In connection with funds, accounts payable, and payroll accounts of the City of Oxnard, assessment districts and the Oxnard Community Development Commission Successor Agency, the Assistant City Treasurer, acting together with the Chief Financial Officer or the Assistant Chief Financial Officer, are hereby authorized to sign all financial instruments drawn on any eligible depository and that each of the above persons, individually, may endorse all financial instruments for deposit to the credit of the City of Oxnard, assessment districts or the Oxnard Community Development Commission Successor Agency.

Section 2. In connection with funds, accounts payable, and payroll accounts of the City of Oxnard and all assessment districts, the Assistant City Treasurer, acting together with the Chief Financial Officer or the Assistant Chief Financial Officer, are hereby authorized to initiate and approve electronic bank transactions for the City of Oxnard, assessment districts or the Oxnard Community Development Commission Successor Agency.

Section 3. The signatures of the above authorized persons may be by facsimile signature. The Assistant City Treasurer is directed to be the custodian of and to control the use of the facsimile signature plates for such authorized persons.

Section 4. The above persons are authorized to execute those documents necessary to perform the acts authorized there.

Section 5. Resolution No. 10,456 adopted on September 15, 1992 is hereby repealed.

Section 6. The title of Resolution No. 10,820 is hereby amended to read as follows:

"RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD ESTABLISHING JOB SPECIFICATIONS FOR THE PERFORMANCE OF STATUTORY AND ADMINISTRATIVE DUTIES BY THE CITY CLERK AND STATUTORY DUTIES BY THE CITY TREASURER"

Section 7. Exhibit B to Resolution No. 10,820 is amended to delete pages 2 and 3 of the exhibit. The deleted page 2 of the Exhibit B of Resolution No. 10,820 has the heading

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"ADMINISTRATIVE DUTIES", while the deleted page 3 of Exhibit B has the heading "QUALIFICATIONS – Administrative Duties".

Section 8. This resolution shall become effective upon its adoption.

PASSED AND ADOPTED THIS 5th day of May, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Tim Flynn, Mayor

ATTEST:

_____
Michelle Ascencion, City Clerk

APPROVED AS TO FORM:

_____
Stephen M. Fischer, City Attorney

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CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO. 10,456

RESOLUTION AUTHORIZING CERTAIN PERSONS TO SIGN AND ENDORSE CITY OF OXNARD AND ASSESSMENT DISTRICT CHECKS AND DRAFTS

The City Council of the City of Oxnard does hereby resolve as follows:

1. In connection with the funds, accounts payable, and payroll accounts of the City of Oxnard and all assessment districts, the City Treasurer or Assistant City Treasurer, acting together with the Finance & Management Services Director or Chief Accounting Officer, are hereby authorized to sign all financial instruments drawn on any eligible depository designated by the City Treasurer and that each of the above persons, individually, may endorse all financial instruments for deposit to the credit of the City or assessment districts.

2. The signature of the above authorized persons may be by facsimile signature. The City Treasurer is directed to be the custodian of and to control the use of the facsimile signature plates for such authorized persons.

3. The above persons are authorized to execute those documents necessary to perform the acts authorized herein.

4. Resolution No. 9015 is hereby repealed.

5. This resolution shall be effective on September 15, 1992.

APPROVED AND ADOPTED this 15th day of September, 1992 by the following vote:

AYES: Councilmembers Furr, Lopez, Maron, Plisky & Takasugi

NOES: None

ABSENT: None

Nao Takasugi, Mayor

ATTEST:

Mabi Covarrubias Plisky, City Clerk

APPROVED AS TO FORM:

Paula Kimball for
Gary L. Gillig, City Attorney

9/9/92

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CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO. 10,820

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD ESTABLISHING JOB SPECIFICATIONS FOR THE PERFORMANCE OF STATUTORY DUTIES AND ADMINISTRATIVE DUTIES BY THE CITY CLERK AND CITY TREASURER

WHEREAS, City Council is authorized by ordinance to establish job specifications for the performance of statutory duties by the City Clerk and City Treasurer; and

WHEREAS, City Council desires to establish such job specifications.

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

1. The job specifications for the City Clerk attached hereto as Exhibit A and incorporated herein by this reference are hereby adopted.

2. The job specifications for the City Treasurer attached hereto as Exhibit B and incorporated herein by this reference are hereby adopted.

3. This resolution shall be effective January 1, 1995.

PASSED AND ADOPTED this 15th day of November, 1994, by the following vote:

AYES: Councilmembers Pinkard, Plisky, Herrera & Holden

NOES: Councilmember Lopez

ABSENT: None

Dr. Manuel M. Lopez, Mayor

ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO FORM:

11-15-94

Gary L. Gillig, City Attorney

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EXHIBIT B

City of Oxnard
January 1, 1995

CITY TREASURER

DEFINITION

With respect to the performance of statutory duties as set forth below, the City Treasurer is directly responsible to the electorate of the City of Oxnard.

ADMINISTRATION AND SUPERVISION

Statutory duties are those duties specified in the Government Code of the State of California to be performed by a city treasurer in a general law city. The City Manager monitors the City Treasurer's performance of statutory duties and advises the City Council of that monitoring.

STATUTORY DUTIES

Receive and safely keep all monies received into the city treasury.

Comply with all laws governing the deposit and securing of city funds and the handling of trust funds.

Pay out money only on warrants signed by legally designated persons.

Regularly, at least once each month, submit to the City Clerk a written report and accounting of all receipts, disbursements, and fund balances, and file a copy with the City Council.

Keep a book showing at all times what bonds are registered and in whose names.

Record all warrants, judgments, notes or other evidences of indebtedness redeemed and report the redemptions to the City Council.

QUALIFICATIONS - Statutory Duties

Qualified elector of the City of Oxnard.

ADMINISTRATIVE DUTIES

The City Treasurer's administrative duties are assigned by the City Manager. The following is a list of duties currently assigned to the City Treasurer:

Plan, coordinate, and direct the activities of personnel assigned to the City Treasurer Department. Supervise, train, develop, evaluate and select all such personnel.

Prepare and administer the department budget and related budgetary materials.

Participate in meetings and conferences with other department administrators, public officials and agencies, private citizens, and professional groups to discuss and resolve problems related to assigned functions.

Pay legal obligations of the City and serve as the treasurer for a number of entities as designated by the City Council.

Assume full responsibility to invest and re-invest surplus and special funds as provided by City Council resolution.

Maintain records of receipts, deposits and expenditures.

Conduct quarterly meetings of the Investment Review Committee.

Prepare a variety of monthly, quarterly, and annual management and accounting reports.

Implement procedures for effective cash controls and for effective cash management.

Establish and maintain effective working relationships with financial institutions and implement and monitor banking procedures.

Study developments in the financial field and participate in professional conferences.

Perform such duties relative to the collection of City taxes and license fees as are prescribed by ordinance.

Direct the City central cashiering functions for the receipt of all City revenue, including but not limited to the posting of utility and other fees and the processing of City payroll checks and accounts payable.

Resolve difficult administrative and technical problems.

Promote and maintain a strong public relations program with emphasis on public services.

Perform related administrative duties as assigned by the City Manager.

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QUALIFICATIONS - Administrative Duties

Knowledge of:

The principles and procedures pertaining to general accounting and investment practices.

Investment analysis.

Laws and other regulations pertaining to banking and treasury operations.

Principles of cash management and cash flow forecasting.

Principles of office administration, supervision, training and public relations.

Ability to:

Develop effective financial methods and procedures.

Understand and interpret laws and regulations.

Prepare a variety of financial statements, reports and analyses.

Supervise, train and evaluate departmental personnel.

Communicate clearly and concisely, orally and in writing.

Experience:

Five years experience in financial analysis, cash management or investment management, including substantial administrative and supervisory experience.

Education:

Equivalent to completion of a bachelor's degree from an accredited college or university with major coursework in accounting, business administration or economics. A master's degree in finance, economics or closely related field would be desirable.

EXHIBIT "2"
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EXHIBIT 3

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO. 15,325

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD AMENDING EXHIBIT A OF RESOLUTION NO. 15,242 AS IT RELATES TO THE SALARY RANGE FOR THE CITY TREASURER

WHEREAS, the City Treasurer is no longer performing the previously assigned administrative duties of that office; and

WHEREAS, because of the City Treasurer's reduced responsibilities, the City Council wishes to reduce the salary of the City Treasurer; and

WHEREAS, such reduction in salary, however, will not occur during the current term of the City Treasurer, but will go into effect at such time that the City Council declares the results of the canvass of the returns for the November 2020 municipal election.

The City Council of the City of Oxnard resolves as follows:

Section 1. Exhibit A of Resolution No. 15,242, as it relates to the salary range for the City Treasurer, is amended to read as follows:

Salary Grade	Classification Title	FLSA Status	Salary Range
7305	City Treasurer	Exempt	$114,656.88 – 157,652.98 (effective until the City Council declares the results of the canvass of the returns for the November 2020 municipal election).
1102	City Treasurer	Exempt	$20,412.08 (effective once the City Council declares the results of the canvass of the returns for the November 2020 municipal election).

Section 2. Except as specifically amended herein by this Resolution, all other provisions of Resolution No. 15,242 shall remain in full force and effect.

EXHIBIT "3"
PAGE 1 OF 2

Section 3. This Resolution shall become effective upon its adoption.

PASSED AND ADOPTED this 5th day of May, 2020, by the following vote:

YES:

NOES:

ABSENT:

ABSTAIN:

_____
Tim Flynn, Mayor

ATTEST:

_____
Michelle Ascencion, City Clerk

APPROVED AS TO FORM:

_____
Stephen M. Fischer, City Attorney

EXHIBIT " 3 "
PAGE 2 OF 2

PROOF OF SERVICE

VCSC No.: 56-2020-00541689-CU-PT-VTA

STATE OF CALIFORNIA)
)
COUNTY OF VENTURA)

I am a resident of the county aforesaid; I am over the age of eighteen years and not a party to the within entitled action; my business address is 840 County Square Drive, Ventura, California 93003.

On June 2, 2020, I served the within **VERIFIED PETITION FOR WRIT OF MANDATE** on the interested parties in said action by placing a true copy thereof enclosed in a sealed envelope, addressed as stated below:

Alexander Nguyen
c/o Jennie Kelly
Assistant City Attorney
City of Oxnard
305 W. Third Street, Suite 100E
Oxnard, CA 93030
jennie.kelly@oxnard.org

☐ **(BY MAIL)** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Ventura, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☐ **(BY PERSONAL SERVICE)** I delivered such envelope by hand to the offices of the addressee.

☐ **(BY OVERNIGHT DELIVERY)** I personally sent said document by overnight mail to the above-named person.

☒ **(BY ELECTRONIC SERVICE)** The above-described document (s) were sent by electronic mail to the e-mail addresses of the law offices stated above. The transmission was reported as complete and without error.

☒ **(State)** I declare, under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on **June 2, 2020**, at Ventura, California.

/s/ Andrew H. Covner

Andrew H. Covner

NORMAN DOWLER, LLP
840 COUNTY SQUARE DRIVE, THIRD FLOOR
VENTURA, CALIFORNIA 93003-5406

PROOF OF SERVICE

VCSC No.: 56-2020-00541689-CU-PT-VTA

STATE OF CALIFORNIA)
)
COUNTY OF VENTURA)

I am a resident of the county aforesaid; I am over the age of eighteen years and not a party to the within entitled action; my business address is 840 County Square Drive, Ventura, California 93003.

On _____, I served the within **VERIFIED PETITION FOR WRIT OF MANDATE** on the interested parties in said action by placing a true copy thereof enclosed in a sealed envelope, addressed as stated below:

City of Oxnard
Michelle Ascencion, City Clerk
300 West Third St., 4th Floor
Oxnard, CA 93030

☐ **(BY MAIL)** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Ventura, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☒ **(BY PERSONAL SERVICE)** I delivered such envelope by hand to the offices of the addressee.

☐ **(BY FACSIMILE)** The above-described document (s) were sent by facsimile transmission to the facsimile number(s) of the law office(s) stated above. The transmission was reported as complete and without error. A copy of the transmission report is made a part of this proof of service pursuant to CRC §2008.

☐ **(BY OVERNIGHT DELIVERY)** I personally sent said document by overnight mail to the above-named person.

☐ **(BY ELECTRONIC SERVICE)** The above-described document (s) were sent by electronic mail to the e-mail addresses of the law offices stated above. The transmission was reported as complete and without error.

☒ **(State)** I declare, under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on _____, at Ventura, California.

_____
Jennifer Escruceria

NORMAN DOWLER, LLP
840 COUNTY SQUARE DRIVE, THIRD FLOOR
VENTURA, CALIFORNIA 93003-5406