

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: Honorable City Council

FROM: Yugal K. Lall, City Engineer/Public Works Director
Prepared by: Shaun Kroes, Senior Management Analyst 

DATE: August 7, 2008 (CC meeting of 08/20/08)

SUBJECT: Consider Request for Proposals to Provide Professional Services for Evaluation and Recommendations for Moorpark City Transit

BACKGROUND AND DISCUSSION

City Council is being asked to consider a Request for Proposal (RFP) to provide consultant services for evaluation of the City's current fixed transit routes and schedules and offer suggestions on improving bus routes, trip times, potential for weekend expansion, and evening hours. Moorpark City Transit (MCT) ridership has been increasing over the years, with an increase of 21.5% in FY 2007/08 compared to FY 2006/07. The FY 2007/08 farebox ratio was 32.99%. The City must maintain a farebox ratio of at least 20% as a requirement for using Local Transportation Funds (LTF). It is staff's intention to use the consultant to improve existing services so that the City's transit system continues to attract more riders while continuing to keep costs down.

The Consultant shall perform the following tasks:

1. Meet with City staff at least three (3) times, including:
 - Data assembly
 - Initial proposals
 - Finalization of maps/timetables
2. Travel on both Route 1 and Route 2 at least once to become familiar with how each Route performs.
3. Develop a Route Map for MCT Monday through Friday operations.
4. Develop a Timetable for MCT Monday through Friday operations.
5. Provide recommendations for increasing ridership and farebox ratio with MCT's current route and time system.
6. Develop a Route Map for MCT for potential evening hours.
7. Develop a Timetable for MCT for potential evening hours.

8. Develop a Route Map for MCT for potential weekend hours.
9. Develop a Timetable for MCT for potential weekend hours.

Staff will review the consultant's recommendations and bring them for the Council's consideration at the end of the project.

FISCAL IMPACT

The FY 2008/09 budget includes \$5,000 for special professional services. The RFP is written such that prospective consultants will provide a price for each particular task, enabling staff to determine if certain tasks should be removed to keep costs down. Depending on the bids, staff may present Council with a Budget Adjustment at the time of the Agreement award.

STAFF RECOMMENDATION

Approve the Request for Proposal and authorize staff to advertise for receipt of proposals.

Attachment A: City Transit Evaluation and Recommendations RFP

REQUEST FOR PROPOSAL
to provide
PROFESSIONAL SERVICES
for
EVALUATION AND RECOMMENDATIONS FOR
MOORPARK CITY TRANSIT

August 21, 2008

CITY OF MOORPARK
Public Works Department
799 Moorpark Avenue
Moorpark, CA 93021

Proposals are due by 3:00 p.m., *September 18, 2008.*

NOTICE INVITING SEALED BIDS FOR
PROFESSIONAL SERVICES FOR
EVALUATION AND RECOMMENDATIONS FOR
MOORPARK CITY TRANSIT

PUBLIC NOTICE IS HEREBY GIVEN that the City of Moorpark as Agency, invites sealed bids for the above stated project and will receive such bids in the office of the City Clerk, 799 Moorpark Avenue, Moorpark, California, 93021 up to the hour of 3:00 p.m. on the 18th day of September, 2008.

The purpose of this invitation is to solicit proposals for the services of a qualified Consultant who will evaluate the City's fixed transit routes and schedules and make recommendations for potential changes (See Appendix A: Scope of Services). Prospective consultants with the qualifications and experience in performing these services are encouraged to submit a proposal to the City of Moorpark. All work shall conform to the requirements provided.

Proposals for Professional Services submitted in response to this Request for Proposal (RFP) will be used to select a professional Consultant for this Project. Prospective Consultant's attention is directed to Appendix B "Proposal Requirements". Proposals must be prepared on the approved proposal forms in conformance with the Proposal Content/Format submitted in a sealed envelope plainly marked on the outside, "EVALUATION AND RECOMMENDATIONS FOR MOORPARK CITY TRANSIT – DO NOT OPEN WITH REGULAR MAIL".

All questions relating to this RFP should be addressed in writing (E-mail is acceptable) to:

Shaun Kroes
City of Moorpark
799 Moorpark Avenue
Moorpark, CA 93021
skroes@ci.moorpark.ca.us

Bid packets and proposal forms may be picked up at Moorpark City Hall, 799 Moorpark Avenue, or mailed upon request. There will be no pre-bid meeting. The City of Moorpark City Council reserves the right to waive any informalities or irregularities in any proposal submitted, to reject any or all proposals, and to award agreements to one or more consultant for one or more of the RFP items. Proposals will remain valid for ninety days while the City reviews the bids.

One (1) original and one (1) copy of the Proposal for Professional Services shall be submitted to the City of Moorpark in a package clearly marked "EVALUATION AND RECOMMENDATIONS FOR MOORPARK CITY TRANSIT – DO NOT OPEN WITH REGULAR MAIL".

Hardcopy to:

City of Moorpark
City Clerk's Office
799 Moorpark Avenue
Moorpark, CA 93021

- Documents are to be double sided and printed on recycled content paper (minimum of 30% post-consumer recycled content).
- Proposals may be hand delivered to the City of Moorpark receptionist at 799 Moorpark Avenue.

This RFP does not commit the City to award an Agreement, to pay any costs incurred in the preparation of a proposal for this request, or to procure or contract for services. The City reserves the right to accept or reject any or all proposals received as a result of this RFP, to negotiate with any qualified firm or to modify or cancel in part or in its entirety the RFP if it is in the best interests of the City to do so.

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- F. Current Moorpark City Transit Ride Guide

Attachment 1: Documentation of Insurance Coverage Requirements

I. **Introduction**

The City of Moorpark (City or City of Moorpark) is requesting proposals for the services of a qualified consultant or firm with verifiable experience in planning fixed transit routes, including scheduling. The Consultant would evaluate the City's current fixed transit routes and schedules and offer suggestions on improving bus routes, trip times, potential for weekend expansion, and evening hours (see Appendix A: Scope of Services). Prospective consultants with the qualifications and experience in performing these services are encouraged to submit a proposal to the City of Moorpark. All work shall conform to the requirements provided.

Proposals for Professional Services submitted in response to this Request for Proposal (RFP) will be used to select a professional consultant for this project. Prospective consultant's attention is directed to Appendix B "Proposal Requirements".

All questions relating to this RFP should be addressed in writing (E-mail is acceptable) to:

Shaun Kroes
City of Moorpark
799 Moorpark Avenue
Moorpark, CA 93021
skroes@ci.moorpark.ca.us

One (1) original and one (1) copy of the Proposal for Professional Services shall be submitted to the City of Moorpark in a package clearly marked "EVALUATION AND RECOMMENDATIONS FOR MOORPARK CITY TRANSIT – DO NOT OPEN WITH REGULAR MAIL".

Hardcopy to:

City of Moorpark
City Clerk's Office
799 Moorpark Avenue
Moorpark, CA 93021

- Documents are to be double sided and printed on recycled content paper (minimum of 30% post-consumer recycled content).
- Proposals may be hand delivered to the City of Moorpark, City Clerk's Office, at 799 Moorpark Avenue prior to bid submittal deadline.

II. Background

Moorpark City Transit (MCT or Moorpark City Transit) includes two fixed-route bus routes (Route 1 and Route 2). Route 1 operates 6:00 a.m. to 5:30 p.m. Monday through Friday. Route 1 travels in a counter-clockwise fashion through Moorpark, a 16 mile loop. Route 2 operates 6:40 a.m. to 6:00 p.m. Monday through Friday. Route 2 travels in a clockwise fashion through the City of Moorpark, a 16 mile loop. Each bus provides 11 trips, with each trip running approximately 52 minutes. Both Routes travel to many of the same locations, with a few differences. For example, Route 2 travels to Moorpark Marketplace and Route 1 travels to Villa del Arroyo Mobile Home Park. Daily operation includes two main vehicles and one relief route vehicle, which provides two trips for Route 1 and three trips for Route 2. Moorpark City Transit contracts with Coach America for bus drivers and bus maintenance.

Moorpark City Transit currently owns five vehicles:

- 2, 2006 El Dorado MST II, 25 seats
- 2, 2002 El Dorado MST II, 25 seats
- 1, 1998 Blue Bird, 24 seats

In Fiscal Year 2007/08, MCT provided 65,534 trips and had a farebox ratio of 32.99%. Moorpark City Transit is funded with Local Transportation Funds (LTF) and is subject to a 20% farebox ratio requirement beginning in FY 2007/08.

III. Schedule

It is the City's intention to complete MCT's evaluation before the end of December 2008. This includes the Consultant's proposal on suggested improvements and alternatives. Prospective consultants should include their schedule in their proposal.

IV. Proposal Content/Format

Prospective consultants shall submit a proposal with the required **Proposal Requirements** (Appendix B), **Detailed Proposal Cost** (Appendix C), **Workers' Compensation Insurance Certification** (Appendix D), and **Required Documentation of Insurance Coverage** (Attachment 1). The proposal should be provided in a sealed envelope and marked on the outside of the envelope "EVALUATION AND RECOMMENDATIONS FOR MOORPARK CITY TRANSIT – DO NOT OPEN WITH REGULAR MAIL". - with the name of the firm. Two (2) copies of the proposal are required (including original documents).

Submit proposal to: City of Moorpark
City Clerk's Office
799 Moorpark Avenue
Moorpark, CA 93021

PROPOSALS MUST BE RECEIVED BY THE CITY NO LATER THAN 3:00 P.M., ON September 18, 2008.

V. **Proposal Evaluation and Selection**

The Proposal Requirements, Cost Proposal, Workers' Compensation and Insurance Certification, and required documentation of insurance coverage must be **sealed and received by the City up to the hour of 3:00 p.m. on the 18th day of September, 2008.**

All proposals properly received before the aforementioned date and time will be evaluated by the City. Proposals shall remain valid for 90 days while the City reviews them. The firm selected as the most qualified to provide the requested services may be invited to negotiate a final Agreement. If an Agreement is not reached, negotiations may be terminated and commenced with the next most qualified firm.

Proposals will be evaluated on the following criteria and rating system with a maximum point value of 100 points:

Technical Qualifications:	20 points
Methodology:	20 points
Experience:	20 points
Price:	20 points
<u>References:</u>	<u>20 points</u>
Total	100 points

RFP EVALUATION FORM

Firm: _____

Date: _____

<u>Evaluation Criteria</u>	<u>Maximum Possible Points</u>	<u>Points Earned</u>
Technical Qualifications <ul style="list-style-type: none">• Clear understanding of the Scope of Work• Knowledge of public transit funding programs	20 points	_____
Methodology <ul style="list-style-type: none">• Staffing/hours• Detailed timeline• Plan	20 points	_____
Experience <ul style="list-style-type: none">• Timetables• Route development• Budget assessment	20 points	_____
Price	20 points	_____
References	20 points	_____
Total	100 points	_____

Prepared by: _____

Proposals received after the time and date specified above will not be considered and will be returned unopened to the prospective consultant.

Unsigned proposals or proposals signed by an individual not authorized to bind the prospective consultant will be rejected.

This RFP does not commit the City to award an Agreement, to pay any costs incurred in the preparation of a proposal for this request, or to procure or contract for services. The City reserves the right to accept or reject any or all proposals received as a result of this RFP, to negotiate with any qualified firm or to modify or cancel in part or in its entirety the RFP if it is in the best interests of the City to do so.

The prospective Consultant is advised that should this RFP result in recommendation for award of an Agreement, the Agreement will not be in force until it is approved and fully executed by the City.

All products used or developed in the execution of any Agreement resulting from this RFP will remain in the public domain at the completion of the Agreement.

Compensation under any Agreement resulting from this RFP will be on a time and expense basis at rates stated in the fee proposal with a not to exceed amount.

A sample of the proposed Agreement is attached herein as Appendix E. The Consultant shall adhere to the provisions of this Agreement. The Consultant shall advise the City, in the proposal transmittal letter, of any provision which they have alternative wording or any provision which they cannot accept.

Any Agreement awarded as a result of this RFP will be awarded without discrimination based on race, color, religion, age, sex, or national origin.

VI. General Proposal Terms and Conditions

Agreement Requirement - The Consultant to whom the Agreement is awarded shall execute a written Agreement with the City within ten (10) calendar days after notice of the award has been sent by mail to the Consultant at the address given in the proposal. The Agreement shall be made in the form approved by the City and incorporated in this RFP. Any exceptions, concerns, or requests to modify the Sample Agreement must be provided in writing and submitted with the Consultant's proposal. The Consultant warrants that it possesses, or has arranged through subcontracts, all capital and other

equipment, labor and materials to carry out and complete the work hereunder in compliance with all applicable federal, state, county, and City laws, ordinances, statutes and regulations.

Communications Regarding RFP - If a prospective consultant is in doubt as to the meaning or intent of any part of the RFP, or discovers discrepancies in or omissions from the RFP, it may submit a written request for an interpretation or correction thereof to the Project Manager, Shaun Kroes, City of Moorpark. Interpretation or correction of the RFP shall be made only by addendum duly issued by the City. A copy of any such addendum will be mailed or delivered to each person receiving the RFP, and such addendum shall be considered a part of the RFP and shall be incorporated therein. All timely requests for information submitted in writing will receive a written response from the City. Telephone communications with members of City staff are not encouraged, but will be permitted. However, any such oral communication shall not be binding on the City.

Modification or Withdrawal of Submittals - Any proposal received prior to the date and time specified for receipt of proposals may be withdrawn or modified by written request of the prospective consultant. To be considered, however, the modified proposal must be received by the time and date originally specified.

Property Rights - Proposals received within the prescribed deadline become the property of the City and all rights to the contents therein become those of the City.

Confidentiality - Prior to award of the Agreement, all proposals will be designated confidential to the extent permitted by the California Public Records Act. After award of the Agreement, or if not awarded, after rejection of all proposals, all responses will be regarded as public records and will be subject to review by the public. Any language purported to render confidential all or portions of the proposals will be regarded as non-effective and will be disregarded.

Non-Commitment of City - This RFP does not commit the City to award an agreement, to pay any costs incurred in the preparation of a proposal responding to this request, or to procure or contract for services. The City reserves the right to accept or reject any or all proposals received as a result of this request, to negotiate with any qualified firm, or to modify or cancel in part or in its entirety the RFP, if it is in the best interest of the City to do so.

VII. **Proposal Checklist**

All of the following items must be included in the submitted proposal in order to be considered complete. Prospective consultant may include additional materials as necessary. Consultant should submit an original proposal and one copy. The proposal must include the following:

1. Answers to Proposal Requirements Content (Appendix B)
2. Proposal Cost Form (Appendix C)
3. Workers' Compensation Insurance Certification (Appendix D)
4. Documentation of Insurance Coverage Required (Attachment 1)

APPENDIXES

APPENDIX A – SCOPE OF SERVICES

APPENDIX B – PROPOSAL REQUIREMENTS

APPENDIX C – PROPOSAL COST FORM

APPENDIX D – WORKERS' COMPENSATION INSURANCE CERTIFICATION

APPENDIX E – SAMPLE AGREEMENT

APPENDIX F – CURRENT MOORPARK CITY TRANSIT RIDE GUIDE

ATTACHMENT 1 – DOCUMENTATION OF INSURANCE COVERAGE
REQUIREMENTS

APPENDIX A SCOPE OF SERVICES

Overview

The City is requesting proposals for the services of a qualified Consultant or firm with verifiable experience in planning fixed transit routes, including scheduling. The Consultant would evaluate the City's current fixed transit routes and schedules and offer suggestions on improving bus routes, trip times, adding bus stops and/or removing bus stops, potential for weekend expansion, evening hours, etc. The Consultant will work with Shaun Kroes, Senior Management Analyst, at the City of Moorpark to discuss MCT's current operations as well as plans for future expansion. All work products produced by the Consultant must first be approved by Shaun Kroes prior to consideration by the City of Moorpark.

Tasks

The Consultant shall perform the following tasks:

1. Meet with City staff at least three (3) times, including...
 - Data assembly
 - Initial proposals
 - Finalization of maps/timetables
2. Travel on both Route 1 and Route 2 at least once to become familiar with how each Route performs.
3. Develop a Route Map for MCT Monday through Friday operations.
4. Develop a Timetable for MCT Monday through Friday operations.
5. Provide recommendations for increasing ridership and farebox ratio with MCT's current route and time system.
6. Develop a Route Map for MCT for potential evening hours.
7. Develop a Timetable for MCT for potential evening hours.
8. Develop a Route Map for MCT for potential weekend hours.
9. Develop a Timetable for MCT for potential weekend hours.

All Route Maps should follow the same format as the existing Ride Guide Map, however, City staff is open to suggested format changes. The Consultant will take into account MCT's budget constraints and farebox ratio requirements when proposing bus operating hours and services. Timetables shall take into account various other factors, including arrival and departure times of the Ventura Intercity Service Transit Authority (VISTA), Metrolink and Amtrak rail services, as well as the Moorpark Unified School

District's start and end times. All Timetables shall include the proposed departure times for each bus stop (see Appendix F - Current Moorpark City Transit Ride Guide).

Route Maps shall be in two digital formats. The first shall be in an editable format (such as Adobe Illustrator. The second format shall be in Adobe Acrobat 8.

Timetables shall be in two digital formats. The first shall be in Microsoft Excel XP/2002 version. The second format shall be in Adobe Acrobat 8.

All Route Maps and Timetables shall come with written justification for the proposed plans.

Deliverables

Five (5) hard copies of Items 3-9 above (including required written reports).

Three (3) CDs containing Items 3-9 above (including required written reports).

APPENDIX B PROPOSAL REQUIREMENTS

These guidelines are provided for standardizing the preparation and submission of proposals by all prospective consultants for professional services. The intent of these guidelines is to assist prospective consultants in preparation of their proposals, to simplify the review process by the City, and to provide standards to better compare proposals.

Proposals will contain the following information in the order listed:

1. Title Page:

A title page showing the request for proposal subject; the Consultant's name; the name, address and telephone number of the contact person; and the date of the proposal.

2. Qualifications and Experience:

Identify Consultant's Project Manager. Include resumes of key staff and include previous project experience similar to the subject projects. Identify key staff and describe the responsibilities of the staff.

The proposal shall indicate the Consultant's experience with planning fixed transit routes, including scheduling. The proposal shall also contain other pertinent experience that may apply to this request. The Consultant shall explain his/her understanding of the work to be done and why the firm believes it to be best qualified to perform the services.

3. Methodology:

After review of the enclosures, please describe the anticipated methodology to be used and estimated number of hours by staffing level for the project. Please also address the anticipated information to be supplied to the City as well as requirements from City staff if any. The proposal shall include a commitment to perform the work within the time period including a draft schedule and a statement that the proposal is a firm and irrevocable offer for 90 days.

4. References:

Please include a minimum of three references, services performed and dates of service.

5. Conflict of Interest Statement:

The Consultant shall disclose any financial, business or other relationship with the City that may have an impact upon the outcome of the Agreement.

6. General Proposal Terms and Conditions:

General Proposal Terms and Conditions, including the Sample Agreement, are included in this RFP; submittal of a proposal by the Consultant signifies the firm understands, and will abide by the provisions of these documents.

7. Exceptions:

Exceptions - The City reserves the right, without obligation, to grant exceptions to the RFP. However, the Consultant must note any exceptions, and his/her reasons, in the proposal. Exceptions taken will be considered during the evaluation process.

8. Work Hours and Fee Estimate:

The price proposal should be completed using Appendix C. The cost should be stated in a "not to exceed" basis. All expense reimbursements will be charged against the total all-inclusive maximum price submitted in this proposal.

APPENDIX C
PROPOSAL COST FORM

In response to the Request for Proposals – Cost Proposal for Consultant Services for planning fixed transit routes. The undersigned agrees to provide services in accordance with these Documents, which have been carefully examined. **On a separate sheet, Consultant shall provide a list of staff members responsible for this project and their hourly rates.** Consultant should list any and all tasks that Consultant expects the City to perform.

COMPENSATION SCHEDULE

Total fixed contract amount for the project shall not exceed \$ _____

The contract amounts are distributed as follows:

<u>Project</u>	<u>Hours</u>	<u>Dollar Amount</u>
Meet with City staff:		
Travel on both bus routes:		
Route Map for MCT Monday through Friday operations:		
Timetable for MCT Monday through Friday operations:		
Recommendations for increasing ridership and farebox ratio with MCT's current route and time system:		
Route Map for MCT for evening hours:		
Timetable for MCT for evening hours:		
Route Map for MCT for weekend hours:		
Timetable for MCT for weekend hours:		

ADDENDA

Bidder must fill in number and date of all addenda or enter the word "none", if appropriate.

The following addenda are acknowledged and attached:

NO.	DATED	NO.	DATED

APPENDIX D
WORKERS' COMPENSATION INSURANCE CERTIFICATION

As required by Section 1860 of the California Labor Code (Chapter 1000, Statutes of 1965), the Consultant shall secure the payment of Workers' Compensation to its employees in accordance with the provisions of Section 3700 of the California Labor Code and shall furnish the City with a certificate evidencing such coverage together with verification thereof as follows:

"I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this Agreement."

SIGNED: _____
(Consultant)

DATE: _____

APPENDIX E
SAMPLE AGREEMENT

**CITY OF MOORPARK
AGREEMENT FOR SERVICES**

THIS AGREEMENT, made this _____ day of _____ between the City of Moorpark, a municipal corporation, located at 799 Moorpark Avenue, Moorpark, California 93021, hereinafter referred to as "City" and _____, hereinafter referred to as "Consultant".

WITNESSETH

The Parties hereto do agree as follows:

WHEREAS, in August 2008, City distributed a Request for Proposal for a qualified Consultant who will evaluate the City's fixed transit routes and schedules and make recommendations for potential changes.; and

WHEREAS, pursuant to said request, Consultant submitted a Proposal, which was accepted by City for services.

NOW THEREFORE, in consideration of their mutual promises, obligations and covenants hereinafter contained, the parties hereto agree as follows:

1. Term – The term of this Agreement shall be from the date this Agreement is made and entered, as first written above, and will continue in effect until the completion of the project.
- 2.1 Incorporation by Reference – The Request for Proposal and all Appendixes thereof are hereby incorporated in and made part of this Agreement as Attachment 2 and the Consultant's Proposal is hereby incorporated in and made a part of this Agreement as Attachment 3.
- 2.2 Order of Precedence – The provisions of this Agreement shall control all Agreement Documents; in the event of any ambiguity or inconsistency, the same shall be resolved by reference first to the language of any written amendments signed by both parties, then to the language of the Agreement, then attachments to the Agreement, then to the language of the City's Request for Proposal (Attachment 2), then to the language of the Consultant's Proposal (Attachment 3), and then to the other Agreement Documents in the order above set forth.

- 2.3 Entire Agreement – This Agreement supersedes any and all agreements, either oral or written, between the parties hereto with respect to the rendering of services by Consultant to the City, and contains all of the covenants and agreements between the parties with respect to the rendering of services by Consultant to the City, and contains all of the covenants and agreements between the parties with respect to the rendering of such services in any manner whatsoever.

It is the intent of this Agreement to procure a qualified Consultant who will evaluate the City's fixed transit routes and schedules and make recommendations for potential changes, in accordance with this Agreement, the Scope of Service within the City's Request for Proposal, and the Consultant's Proposal dated _____, which has been attached hereto as Attachment 3, and made a part of this Agreement.

Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, oral or otherwise, not embodied herein, shall be valid or binding and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding. This Agreement shall not be amended in any way except by a writing expressly purported to be such an amendment, signed and acknowledged by both of the parties hereto.

3. City Obligations – For furnishing services as specified in this Agreement, City will pay and Consultant shall receive as full compensation therefore, a not-to-exceed sum based on the compensation schedule shown in Attachment 3, Appendix C, attached hereto and made part of this Agreement.

Payments to the Consultant shall be made within thirty-five (35) days after receipt of an original invoice and back up materials from the Consultant and acceptance of the invoice and back up by the City.

4. Consultant's Obligations – For and in consideration of the payments and agreements herein before mentioned to be made and performed by City, Consultant agrees with City to provide services as specified and to do everything required by this Agreement, the said Request for Proposal and all Appendixes and Attachments thereof. Consultant shall review, coordinate and approve the work of all subcontractors retained by Consultant. Consultant shall be responsible for all work performed by said subcontractors (a) as being complete, (b) as meeting City's and Consultant's requirements, and (c) as if it had been performed by Consultant. Without limiting the generality of the foregoing,

Consultant warrants on behalf of itself and all subcontractors engaged for the performance of this Agreement, that only persons authorized to work in the United States, pursuant to the Immigration Reform and Control Act of 1986 and other applicable laws, shall be employed in the performance of the work hereunder.

5. Licenses and Registrations – At all times during the term of this Agreement, Consultant shall have in full force and effect, all licenses and registrations required of it by law for the performance of the services in this Agreement.
6. Hold Harmless and Indemnification – Consultant shall indemnify, defend and hold harmless City, and any and all of its employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorneys' fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or entity for which Consultant is legally liable, including but not limited to officers, agents, employees or subcontractors of Consultant.

City does not and shall not; waive any rights that it may have against Consultant by reason of Paragraph 6, hereof, because of the acceptance by City or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. This hold harmless and indemnification provision shall apply regardless of whether or not said insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense described in Paragraph 6 hereof.

7. Insurance – The Consultant shall maintain prior to the beginning of, and for the duration of this Agreement, insurance coverage as specified in Attachment 1, attached to and made part of this Agreement.
8. Independent Consultant – Consultant is and at all times shall remain, as to the City, a wholly independent consultant. Consultant shall not, at any time or in any manner, represent that he is an officer, employee or agent of the City. Consultant shall comply with all applicable provisions of the Workers' Compensation Insurance and Safety Acts and Labor Code of the State of California.

9. Amendments – Any amendment, modification, or variation from the terms of this Agreement shall be in writing and shall be effective only upon approval by the City Manager.

10. Termination – Consultant may terminate this Agreement only for breach of contract by City and upon thirty (30) days written notice. City may terminate this Agreement without cause, and upon thirty (30) days written notice to Consultant, in which case Consultant shall be entitled to receive compensation for the reasonable value of the Consultant's services performed through the termination date. Furthermore, if, during the term of this Agreement, City determines that Consultant is not faithfully abiding by any term or condition contained herein, City shall provide Consultant with written notice and said notice must give Consultant a 48-hour notice of time thereafter in which to perform said work or cure the deficiency. If Consultant has not performed the work or cured the deficiency within the time specified in the notice, or if a similar failure to perform or deficiency is repeated, such shall constitute a breach of this Agreement and City may terminate this Agreement, immediately by written notice to Consultant to said effect. In said event, Consultant shall be entitled to the reasonable value of its services performed up to the day it received City Notice of Termination, minus any offset from such payment representing the City damages from such breach. Failure of the Consultant to provide City staff reports, documents, and other material which meets or exceeds reasonable professional standards, or in a timely manner, shall entitle City to offset against any amounts owed costs incurred by City to replace or obtain such materials or services which meet or exceed reasonable professional standards in a timely manner from other sources.

City reserves the right to delay any post-termination payment until completion or confirmed abandonment of the project, as may be determined in the City's sole discretion, so as to permit a full and complete accounting of costs. In no event shall Consultant be entitled to receive in excess of the compensation quote in its proposal.

11. Ownership of Reports and Data – The originals of all studies, reports, exhibits, documents, data and/or other work material(s) prepared and/or used to comply with any section/condition of the Request for Proposal, including any copies of same required by the Agreement to be furnished to the City, shall be public records, which shall be open to inspection by the public and shall become and remain the property of the City.

12. Assignment/Successors – Consultant shall not assign this Agreement, or any of the rights, duties or obligations hereunder. It is understood and acknowledged by the parties that the Consultant is uniquely qualified to perform the services provided for in this Agreement.
13. Attorneys' Fees – If any action at law or suit in equity, including an action for declaratory relief, is brought to enforce or interpret any provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, court costs, and necessary disbursements, in addition to any other relief to which it may be entitled.
14. Complete Agreement – This written Agreement, including all writings specifically incorporated herein by reference, shall constitute the complete Agreement between the parties hereto. No oral agreement, understanding, or representation not reduced to writing and specifically incorporated herein shall be of any force or effect, nor shall any such oral agreement, understanding, or representation be binding on the parties hereto.

In the event of conflict between the terms, conditions, or provisions of this Agreement and any such document or instrument, the City shall be the sole person to decide which document or provision shall govern.

15. Non-Discrimination – In the performance of the terms of this Agreement, the Consultant agrees that it will not engage in, nor permit such subcontractors as it may employ to engage in, discrimination in employment of persons because of age, race, color, sex, national origin or ancestry, or religion of such person(s).
16. Venue – This Agreement is made, entered into, and executed in Moorpark, Ventura County, California, and any action filed in any court of law for arbitration of the interpretation, enforcement and/or otherwise of the terms, covenants and conditions referred to herein shall be filed in the applicable court in Ventura County, California.
17. Non-Exclusive Agreement – The City reserves the right to contract with other firms during the Agreement term or to issue multiple agreements for individual aspects of the project as may be deemed in the best interests of the City.
18. Public Domain – All products used or developed in the execution of this Agreement will remain in the public domain at the completion of the Agreement.

- 19. Audit - City shall have the option of inspecting and/or auditing all records and other written materials used by Consultant in preparing its statements to City as a condition precedent to any payment to Consultant.
- 20. Interpretation of Agreement – Should interpretation of this Agreement, or any portion thereof be necessary, it is deemed that this Agreement was prepared by the parties jointly and equally, and shall not be interpreted against either party on the grounds that the party prepared the Agreement or caused it to be prepared.
- 21. Waiver of Agreement – No waiver of any provision of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any such waiver constitute a continuing or subsequent waiver of the same provision. No waiver shall be binding unless executed in writing by the party making the waiver.
- 22. Captions and Headings – The captions and headings of the various Articles and Paragraphs of this Agreement are for the convenience and identification only and shall not be deemed to limit or define the content of the respective Articles and Paragraphs hereof.
- 23. Notice – Any notice to be given hereunder by either party to the other shall be effected either by personal delivery in writing or by certified mail, postage prepaid, return receipt requested. Mailed notices shall be addressed to the City as follows:

Steven Kueny
City Manager
City of Moorpark
799 Moorpark Avenue
Moorpark, CA 93021

Mailed notices shall be addressed to the Consultant as follows:

Each party may change the address by written notice in accordance with this section. Notices delivered personally will be deemed served as of actual receipt; mailed notices will be deemed served as of the second (2nd) day after mailing.

24. Authority to Execute Agreement – Both City and Consultant do covenant that each individual executing this Agreement on behalf of each party is a person duly authorized and empowered to execute agreements for such party.
25. City's Agent – The Moorpark City Manager, or his designee, shall have the right to review, coordinate, and approve all work to be performed by the Consultant pursuant to this Agreement, and shall be the City's agent in this matter.
26. Conflicts of Interest – The Consultant shall disclose any financial, business or other relationship with the City that may have an impact upon the outcome of the Agreement.
27. Conflict of Interest Disclosure – In accordance with California Government Code Section 87306, the Consultant awarded an agreement **may** be required to file a Conflict of Interest Statement, Form 730. If such a requirement is made, the filing must be no later than thirty (30) days after the execution of the Agreement, annually thereafter prior to April 1st of each year for the duration of the Agreement, and within thirty (30) days of termination of the Agreement. Failure to file any required statements will result in withholding payment for services rendered.

WITNESS the execution of this Agreement.

CITY OF MOORPARK

Steven Kueny, City Manager

Date: _____

ATTEST

Deborah S. Traffenstedt, City Clerk

Consultant

Name, Position

Date: _____

ATTACHMENT 1
INSURANCE REQUIREMENTS

Prior to the beginning of and throughout the duration of Work, Consultant will maintain insurance in conformance with the requirements set forth below. Consultant will use existing coverage to comply with these requirements. If that existing coverage does not meet requirements set forth here, Consultant agrees to amend, supplement or endorse the existing coverage to do so. Consultant acknowledges that the insurance coverage and policy limits set forth in this section constitute the minimum amount of coverage required. Any insurance proceeds available to the City in excess of the limits and coverage required in this Agreement and which is applicable to a given loss, will be available to the City.

Consultant shall provide the following types and amounts of insurance:

Commercial General Liability Insurance using Insurance Services Office (ISO) "Commercial General Liability" policy form CG 00 01 or the exact equivalent. Defense costs must be paid in addition to limits. There shall be no cross liability exclusion for claims or suits by one insured against another. Limits are subject to review but in no event less than \$1,000,000 per occurrence for all covered losses and no less than \$2,000,000 general aggregate.

Business Auto Coverage on ISO Business Auto Coverage form CA 00 01 including symbol 1 (Any Auto) or the exact equivalent. Limits are subject to review, but in no event to be less than \$1,000,000 per accident. If Consultant owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If Consultant or Consultant's employees will use personal autos in any way on this project, Consultant shall provide evidence of personal auto liability for each such person.

Workers' Compensation on a state-approved policy form providing statutory benefits as required by law with employer's liability limits no less than \$1,000,000 per accident or disease.

Excess or Umbrella Liability Insurance (Over Primary) if used to meet limit requirements, shall provide coverage at least as broad as specified for the underlying coverages. Any such coverage provided under an umbrella liability policy shall include a drop down provision providing primary coverage above a maximum of \$1,000,000 self-insured retention for liability not covered by primary but covered by umbrella. Coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. Policy shall contain a provision obligating insurer at the time

insured's liability is determined, not requiring actual payment by the insured first. There shall be no cross liability exclusion precluding coverage for claims or suits by one insured against another. Coverage shall be applicable to the City for injury to employees of Consultant, subconsultants or others involved in the Work. The scope of coverage provided is subject to approval by the City following receipt of proof of insurance as required herein. Limits are subject to review but in no event less than **\$1,000,000** per occurrence.

Professional Liability or Errors and Omissions Insurance as appropriate shall be written on a policy form coverage specifically designed to protect against acts, error or omissions of the Consultant and "Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy limit shall be no less than **\$1,000,000** per claim and in the aggregate. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend. The policy retroactive date shall be on or before the effective date of this Agreement.

Insurance procured pursuant to these requirements shall be written by insurers that are admitted carriers in the State of California and with an A.M. Bests rating of A- or better and a minimum financial size of VII.

General conditions pertaining to provision of insurance coverage by Consultant. Consultant and the City agree to the following with respect to insurance provided by Consultant:

1. Consultant agrees to have its insurer endorse the third party general liability coverage required herein to include as additional insureds the City, its officials, employees and agents, using standard ISO endorsement CG 2010 with an edition prior to 1992. Consultant also agrees to require all contractors and subcontractors to do likewise.
2. No liability insurance coverage provided to comply with this Agreement shall prohibit Consultant, or Consultant's employees, or agents, from waiving the right to subrogation prior to a loss. Consultant agrees to waive subrogation rights against the City regardless of the applicability of any insurance proceeds, and to require all contractors and subcontractors to do likewise.
3. All insurance coverage and limits provided by Contractor and available or applicable to this Agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to the City or its operation limits the application of such insurance coverage.

4. None of the coverages required herein will be in compliance with these requirements if they include limiting endorsement of any kind that has not been first submitted to the City and approved in writing.
5. No liability policy shall contain any provision or definition that would serve to eliminate so-called "third party action over" claims, including any exclusion for bodily injury to an employee of the insured or of any contractor or subcontractor.
6. All coverage types and limits required are subject to approval, modification and additional requirements by the City, as the need arises. Consultant shall not make any reductions in scope of coverage (e.g. elimination of contractual liability or reduction of discovery period) that may affect the City's protection without the City's prior written consent.
7. Proof of compliance with these insurance requirements, consisting of certificates of insurance evidencing all of the coverages required and an additional insured endorsement to Consultant's general liability policy, shall be delivered to city at or prior to the execution of this Agreement. In the event such proof of any insurance is not delivered as required, or in the event such insurance is canceled at any time and no replacement coverage is provided, the City has the right, but not the duty, to obtain any insurance it deems necessary to protect its interests under this or any other Agreement and to pay the premium. Any premium so paid by the City shall be charged to and promptly paid by Consultant or deducted from sums due Consultant, at the City's option.
8. Certificate(s) are to reflect that the insurer will provide 30 days notice to the City of any cancellation of coverage. Consultant agrees to require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, or that any party will "endeavor" (as opposed to being required) to comply with the requirements of the certificate.
9. It is acknowledged by the parties of this Agreement that all insurance coverage required to be provided by Consultant or any subcontractor, is intended to apply first and on a primary, non-contributing basis in relation to any other insurance or self insurance available to the City.
10. Consultant agrees to ensure that subcontractors, and any other party involved with the Work who is brought onto or involved in the Work by Consultant, provide the same minimum insurance required of Consultant. Consultant agrees to

monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Consultant agrees that upon request, all agreements with subcontractors and others engaged in the Work will be submitted to the City for review.

11. Consultant agrees not to self-insure or to use any self-insured retentions or deductibles on any portion of the insurance required herein and further agrees that it will not allow any contractor, subcontractor, Architect, Engineer, or other entity or person in any way involved in the performance of Work contemplated by this Agreement to self-insure its obligations to the City. If Consultant's existing coverage includes a deductible or self-insured retention, the deductible or self-insured retention must be declared to the City. At that time, the City shall review options with the Consultant, which may include reduction or elimination of the deductible or self-insured retention, substitution of other coverage, or other solutions.
12. The City reserves the right at any time during the term of the Agreement to change the amounts and types of insurance required by giving the Consultant 90 days advance written notice of such change. If such change results in substantial additional cost to the Consultant, the City will negotiate additional compensation proportional to the increased benefit to the City.
13. For purposes of applying insurance coverage only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or towards performance of this Agreement.
14. Consultant acknowledges and agrees that any actual or alleged failure on the part of the City to inform Consultant of non-compliance with an insurance requirement in no way imposes any additional obligations to the City nor does it waive any rights hereunder in this or any other regard.
15. Consultant will renew the required coverage annually as long as the City, or its employees or agents face an exposure from operations of any type pursuant to this Agreement. This obligation applies whether or not the Agreement is canceled or terminated for any reason. Termination of this obligation is not effective until the City executes a written statement to that effect.
16. Consultant shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other

policies providing at least the same coverage. Proof that such coverage has been ordered shall be submitted prior to expiration. As coverage binder or letter from Consultant's insurance agent to this effect is acceptable. A certificate of insurance and/or additional insured endorsement as required in these specifications applicable to the renewing or new coverage must be provided to the City within five days of the expiration of coverage.

17. The provisions of any Workers' Compensation or similar act will not limit the obligations of Consultant under this Agreement. Consultant expressly agrees not to use any statutory immunity defenses under such laws with respect to the City, its employees, officials and agents.
18. Requirements of specific coverage features or limits contained in this section are not intended as limitations on coverage, limits or other requirements nor as a waiver of any coverage normally provided by any given policy. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue, and is not intended by any party or insured to be limiting or all-inclusive.
19. These insurance requirements are intended to be separate and distinct from any other provision in this Agreement and are intended by the parties here to be interpreted as such.
20. The requirements in this section supersede all other sections and provisions of this Agreement to the extent that any other section or provision conflicts or impairs the provisions of this section.
21. Consultant agrees to be responsible for ensuring that no contract used by any party involved in any way with the Work reserves the right to charge the City or Consultant for the cost of additional insurance coverage required by this Agreement. Any such provisions are to be deleted with reference to the City. It is not the intent of the City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against the City for payment of premiums or other amounts with respect thereto.
22. Consultant agrees to provide immediate notice to City of any claim or loss against Consultant arising out of the work performed under this Agreement. The City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve the City.