MOORPARK CITY COUNCIL
AGENDA REPORT

TO: Honorable City Council

FROM: Dave Klotzle, Interim City Engineer/Public Works Director
Prepared by: Shaun Kroes, Senior Management Analyst

DATE: March 4, 2011 (CC meeting of 03/16/11)

SUBJECT: Consider Request for Proposals to Provide Bus Excursion Services and Authorization to Advertise for Proposals

BACKGROUND/DISCUSSION

City Council is being asked to consider a Request for Proposal (RFP) to provide bus transportation services for existing programs offered by the City Engineer/Public Works Department and Parks and Recreation Department. Examples of these programs include: the Summer Beach Bus, Camp Moorpark and Adventure Camp, and the Active Adult Center's excursions to points of interest. The purpose of this RFP is to secure a qualified contractor through a contractual arrangement to provide bus transportation for various recreation programs. The City's fixed route and paratransit services are not a part of the proposed RFP as they are administered through separate agreements.

In 2008, the City competitively bid all of the above listed bus services and awarded an agreement to Durham School Services for one year, with two, one-year extensions. The City's agreement with Durham expires May 31, 2011. If approved, the attached RFP will be advertised and cost proposals will be due to the City on April 14, 2011. Staff anticipates that it would present a recommendation to award an agreement to the most qualified bidder at the May 4, 2011 City Council meeting. Upon City Council approval, the new agreement would be effective June 1, 2011, in time for the start of Camp Moorpark/Adventure Camp and the Beach Bus program. The Active Adult Center does not presently have any scheduled trips. The proposed agreement is a three-year agreement which will have rates specified for each year of service. Language is included in the agreement stating that the contractor cannot adjust the pricing if the City determines to reduce or expand program services during the term of the agreement.

FISCAL IMPACT

There is no fiscal impact associated with the proposed RFP process. The transportation services covered by the RFP and subsequent agreement are for existing programs. Funds for the remainder of FY 2010/11 have already been approved in the current budget. As a part of the FY 2011/12 budget process, staff will request funding for the Beach Bus (Local TDA and fares), Camp Moorpark/Adventure Camp (General Fund from registration fees) and Active Adult Program (Trust Fund from trip fees).

STAFF RECOMMENDATION

Approve the RFP and authorize staff to advertise for proposals.

Attachment: Bus Excursion Services RFP

CITY OF MOORPARK
DEPARTMENT OF PUBLIC WORKS

REQUEST FOR PROPOSAL (RFP)
FOR
BUS EXCURSIONS AND CHARTER BUS TRANSIT SERVICES

JANICE PARVIN, MAYOR
ROSEANN MIKOS, MAYOR PRO TEM
KEITH MILLHOUSE, COUNCILMEMBER
DAVID POLLOCK, COUCILMEMBER
MARK VAN DAM, COUNCILMEMBER

STEVEN KUENY
-CITY MANAGER-

DAVID KLOTZLE, P.E.
-INTERIM CITY ENGINEER/PUBLIC WORKS DIRECTOR-

March 17, 2011

Proposal Submission Deadline:
April 14, 2011
Proposals are due by 3:00 p.m.

NOTICE INVITING REQUESTS FOR PROPOSAL
FOR
BUS EXCURSIONS AND CHARTER BUS TRANSIT SERVICES

PUBLIC NOTICE IS HEREBY GIVEN that the City of Moorpark (City) as Agency, invites sealed bids for the above stated project and will receive such bids in the Public Works Department, 799 Moorpark Avenue, Moorpark, California, 93021 up to the hour of 3:00 p.m. on April 14, 2011.

The purpose of this invitation is to solicit proposals for Bus Excursions and Charter Bus Transit Services.

Proposals shall be prepared on the approved Proposal Forms in conformance with the Instructions to Bidders and submitted (one original and one copy) in a sealed envelope plainly marked on the outside, "BUS EXCURSIONS AND CHARTER BUS TRANSIT SERVICES – DO NOT OPEN WITH REGULAR MAIL". 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 contractor for one or more of the RFP items. Proposals will remain valid for ninety (90) days while the City reviews.

Hardcopy to:

City of Moorpark
Public Works Department
Attn: Shaun Kroes
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 receptionist at 799 Moorpark Avenue.

This Request for Proposal (RFP) does not commit the City to award an Agreement, nor pay for any costs incurred in the preparation of a proposal for this request. 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.

Bid Packets and Proposal Forms may be picked up at Moorpark City Hall, 799 Moorpark Avenue, or mailed upon request.

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

City of Moorpark
Public Works Department
Attn: Shaun Kroes
799 Moorpark Avenue
Moorpark, CA 93021
skroes@ci.moorpark.ca.us

The deadline for questions is April 5, 2011, at 4:00 p.m. All questions will be recorded and submitted, with answers, to all known Proposers by 5:00 p.m., April 7, 2011.

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Attachments:
1. Documentation of Insurance Coverage Requirements
   - 1A. Sample Endorsement

I. Introduction

This RFP seeks proposals from qualified firms for bus excursion and bus transit services, including, but not limited to: the Moorpark Summer Beach Bus, winter spring and summer camps (Camp Moorpark), and Active Adult Center charters. It is anticipated that all services will be day trips, typically five to ten hours in duration. Most, but not all of the activities will occur between June and August of each year, during the traditional school summer break. In recent years, the City has contracted for about 800 to 900 hours of excursion and charter services per year.

Basic level of service consists of one contractor-provided bus for each excursion or charter event, and being able to provide additional bus(es) due to increased demand or mechanical break down. A recent model school bus that is ADA compliant could meet the requirements of this RFP for excursion services.

Operations of the transportation services contemplated by this RFP shall be conducted in accordance with the terms and conditions contained herein, in the Scope of Services (Appendix A), the Agreement (Appendix F) and other documents, laws and regulations governing this project.

II. Services to be Performed

Proposals shall be for providing dispatchers, vehicles, and drivers for various bus excursions and for operating and maintaining sufficient vehicles and backup vehicles to ensure uninterrupted service.

Operation Services

A. Moorpark Beach Bus - The Moorpark Beach Bus operates from 9:00 a.m. to 6:30 p.m. for approximately ten (10) to twelve (12) weeks from mid-June to mid-August. The current intent of the City is to offer this service on Tuesdays, Wednesdays, and Thursdays. The public transportation service included in this Scope of Service consists of a single vehicle service for the City with eight (8) to ten (10) revenue hours per day. A school bus is usually adequate for this service. Contractor shall provide service between various stops in the City and a beach destination, such as Zuma County Beach in Malibu. This shall be an unsupervised public transit service. One vehicle shall make two (2) or more round trips each day of service in accordance with a published schedule. Schedule adherence is important for this service.

   The City shall determine and set fares. Contractor shall charge passengers exactly as specified unless notified by the City that there will be a deviation from regular fares.

B. Camp Moorpark & Adventure Camp - Camp Moorpark and Adventure Camp are summer recreation programs that typically requires one or two (1 - 2) buses

Monday through Friday for a ten (10) to eleven (11) week period from June through August. Trips are taken by children ages 5-14. Trip destinations include locations in Ventura, Los Angeles, and Santa Barbara counties. This is a subscription service. Passengers register in advance with the City. Passengers are supervised by City staff. The number of passengers can be up to seventy (70) children and fourteen (14) staff.

C. Active Adult Center - Transportation from the Moorpark Active Adult Center to a local attraction such as a museum or event site, typically within seventy-five (75) miles of Moorpark, and not usually exceeding ten hours from beginning to end.

The City, at its sole option, may contract with more than one bus operator or expand or reduce services during the term of the Agreement. Proposers are encouraged to review the Scope of Service (Appendix A) and Agreement (Appendix F) for more information regarding operation of services. City may cancel a trip with twenty-four (24) hours notice with no payment or penalty.

III. Proposal Content/Format

Prospective contractors shall submit a proposal with the required **Proposal Cost Form and Addenda** (Appendix B); **Proposer Reference Forms – Parts I and II** (Appendix C); **Vehicle Identification Forms – Parts I and II** (Appendix D); **List of Subcontractors** (Appendix E, if applicable); **Required Documentation of Insurance Coverage** (Attachment 1), **Including Sample General Liability Endorsement** (Attachment 1A); The proposal should be provided in a sealed envelope and marked on the outside of the envelope "BUS EXCURSIONS AND CHARTER BUS TRANSIT SERVICES – DO NOT OPEN WITH REGULAR MAIL". - with the name of the firm. Provide one (1) original and one (1) copy.

Submit proposal to:

City of Moorpark
Public Works Department
Attn: Shaun Kroes
799 Moorpark Avenue
Moorpark, CA 93021

PROPOSALS MUST BE RECEIVED BY THE CITY NO LATER THAN 3:00 P.M., ON APRIL 14, 2011.

IV. Proposal Evaluation and Selection

The Proposal Cost Forms, Proposer Reference Forms, Vehicle Identification Forms, 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 14th day of April, 2011. Proposals received after the time and date specified above will not be considered and will be returned unopened.

All proposals received shall be evaluated with the emphasis placed on:

1. The proposing firm's ability to meet City requirements.
2. The responsiveness of the proposal.
3. The quality of the equipment quoted for the required cost.
4. Other factors such as the ability to meet service dates and the general competence of the Proposer.
5. Cost shall be evaluated in relation to other qualified Proposers. The City need not select the lowest Proposer, but may choose according to the lowest qualified proposal in the best interest of the City.

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

The Proposer is advised that should this RFP result in recommendation for award of an Agreement, the Agreement shall 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 shall remain in the public domain at the completion of the Agreement.

Compensation under any Agreement resulting from this RFP shall be on a time and expense basis at rates stated in the cost forms.

A sample of the proposed Agreement is attached herein as Appendix F. The Contractor shall adhere to the provisions of this Agreement. The Contractor 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 shall be awarded without discrimination based on race, color, religion, age, sex, or national origin.

V. General Proposal Terms and Conditions

A. Agreement Requirement - The Proposer 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 Contractor at the address given in the proposal. The Agreement shall be made in the form approved by the City and incorporated in this RFP as Appendix F. Any exceptions, concerns, or requests to modify the Agreement must be provided in writing and submitted with the Contractor's proposal. The Contractor 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.

B. Communications Regarding RFP - If a Proposer 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 shall 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 by April 5, 2011, at 4:00 p.m., shall 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.

C. 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 contractor. To be considered, however, the modified proposal must be received by the time and date originally specified.

D. 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.

E. Confidentiality - Prior to award of the Agreement, all proposals shall 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 shall be regarded as public records and shall be subject to review by the public. Any language purported to render confidential all or portions of the proposals shall be regarded as non-effective and shall be disregarded.

F. 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.

G. Insurance Endorsement - Contractor's attention is directed to Attachment 1A "Sample Endorsement". The City requires Contractor to endorse the third party general liability coverage required per Attachment 1 to include as additional insureds the City, its officials, employees and agents, using standard ISO endorsement CG 20 10 with an edition prior to 1992. The required endorsement form is the CG 20 10 11 85. Contractor is required to submit its insurance company's sample endorsement certificate to demonstrate that it is aware and able to provide the required certificate if awarded the Agreement.

H. Subcontractor Approval - Unless prior written consent from the City is obtained, only those subcontractors whose names appear in Contractor's proposal (provided in Appendix E) shall be used in the performance of this Agreement.

VI. **Proposal Checklist**

All of the following items must be included in the submitted proposal in order to be considered complete. Contractor may include additional materials as necessary. Contractor should submit one (1) original proposal and one (1) copy. The proposal must include the following:

1. Proposal Cost Form and Addenda (Appendix B)
2. Proposer Reference Forms – Parts I and II (Appendix C)
3. Vehicle Identification Forms – Parts I and II (Appendix D)
4. List of Subcontractors (if applicable) (Appendix E)
5. Required documentation of insurance coverage (Attachment 1) – including sample general liability endorsement (Attachment 1A)
6. Proposer Supplied Additional Information

APPENDIXES

APPENDIX A – SCOPE OF SERVICES

APPENDIX B – PROPOSAL COST FORM AND ADDENDA

APPENDIX C – PROPOSER REFERENCE FORMS – PARTS I AND II

APPENDIX D – VEHICLE IDENTIFICATION FORMS – PARTS I AND II

APPENDIX E – LIST OF SUBCONTRACTORS (FILE IF APPLICABLE)

APPENDIX F – AGREEMENT

ATTACHMENTS:

1. DOCUMENTATION OF INSURANCE COVERAGE REQUIREMENTS

1A. SAMPLE ENDORSEMENT

APPENDIX A
SCOPE OF SERVICES
FOR BUS EXCURSION CHARTER BUS SERVICES

SECTION 1. SERVICE DAYS AND HOURS

MOORPARK BEACH BUS

The Moorpark Beach Bus operates from 9:00 a.m. to 6:30 p.m. for approximately ten (10) to twelve (12) weeks from mid-June to mid-August. The current intent of the City is to offer this service on Tuesdays, Wednesdays, and Thursdays. The public transportation service included in this Scope of Service consists of a single vehicle service for the City with eight (8) to ten (10) revenue hours per day. A school bus is usually adequate for this service. Contractor shall provide service between various stops in the City and a beach destination, such as Zuma County Beach in Malibu. This shall be an unsupervised public transit service. One vehicle shall make two (2) or more round trips each day of service in accordance with a published schedule. Schedule adherence is important for this service.

The City shall determine and set fares. Contractor shall charge passengers exactly as specified unless notified by the City that there will be a deviation from regular fares.

CAMP MOORPARK & ADVENTURE CAMP

Camp Moorpark and Adventure Camp are summer recreation programs that typically requires one or two (1 - 2) buses Monday through Friday for a ten (10) to eleven (11) week period from June through August. Trips are taken by children ages 5-14. Trip destinations include locations in Ventura, Los Angeles, and Santa Barbara counties. This is a subscription service. Passengers register in advance with the City. Passengers are supervised by City staff. The number of passengers can be up to seventy (70) children and fourteen (14) staff.

The City, at its sole option, may contract with more than one bus operator to expand or reduce services during the term of the Agreement. The City, at its sole option, may wish to expand or reduce these services during the term of the Agreement.

ACTIVE ADULT CENTER

Transportation from the Moorpark Active Adult Center to a local attraction such as a museum or event site, typically within seventy-five (75) miles of Moorpark, and not usually exceeding ten hours from beginning to end.

SECTION 2. ROUTES

With the exception of the Moorpark Beach Bus, trips shall have one (1) point of origin in the City, which shall be the Arroyo Vista Recreation Center at 4550 Tierra Rejada Road for Camp Moorpark or 799 Moorpark Avenue for the Active Adult Center. The Beach Bus has approximately four (4) stops for boarding and alighting in the City. All services usually have one (1) destination point.

The City reserves the right to adjust the routes, providing notice as indicated in this Agreement.

SECTION 3. OPERATIONS

The Contractor shall be responsible for operation of the vehicles used to provide services contemplated by this Agreement. The Contractor shall ensure at all times that vehicles used for passenger conveyance shall be operated with due regard for the safety, comfort, and convenience of the public. The Contractor shall be responsible for complying with all applicable federal, state and local laws and requirements.

SECTION 4. CONTRACTOR VEHICLES

Contractor shall provide all necessary vehicles, including one (1) primary bus and at least one (1) backup bus to ensure continuation of service in case of a breakdown of the primary bus. All Contractor-supplied vehicles shall have less than 75,000 original odometer miles and shall be equipped with a wheelchair lift (or ramp) and meet ADA standards. The Contractor shall at all times be required to have a backup vehicle available for use in the event that the primary vehicle is unable to operate.

Backup vehicles shall be in safe and good working order. The City shall have the right to approve the suitability of any vehicle used by the Contractor under this Agreement.

In the event that the vehicle being used by the Contractor breaks down, the Contractor shall provide a backup vehicle on site within one and a half (1 ½) hours.

The Primary vehicles shall have a minimum of twenty-five (25) bench seats and a seating capacity of approximately seventy-five (75) children at three (3) passengers per bench seat, and approximately fifty (50) adults at two (2) passengers per bench seat. All vehicles must have storage for luggage. Air conditioning, large tinted windshield and passenger windows are desirable but not required. A late model school bus in good condition may meet the criteria for vehicles.

SECTION 5. MAINTENANCE

The Contractor shall perform the duties and accept the responsibilities set forth in connection with the maintenance of the Contractor's vehicles used to provide services

under this Agreement. Contractor's buses, vans, school buses or other vehicles accepted to the City that are used to provide services under this Agreement are referred to in this section as "vehicles ". The omission of a duty or responsibility herein shall not relieve the Contractor of its obligation to perform such duty or accept such responsibility, so long as it is usual, customary and generally accepted within the public transportation industry as being an integral element of operating a fixed-route and dial-a-ride public transportation system of a kind and character such as Moorpark City Transit.

5.1. Maintenance Facility: The Contractor shall provide and maintain an appropriate fixed maintenance facility within a 35-mile radius from the City. The facility shall be equipped with all tools and equipment necessary for maintenance of vehicles in accordance with this Agreement. When out-of-service, vehicles shall be stored at all times either within an enclosed, paved garage, or within a paved, security-fenced outside storage area.

5.2. Daily Maintenance: The Contractor shall perform daily vehicle servicing on all vehicles under this Agreement. For purposes of this Agreement, daily servicing shall include, but not be limited to: fueling; engine oil, coolant, water, and transmission fluid check/add; farebox vault pulling and replacement; wheelchair lift check; brake check; light and flasher check; and checking all vehicle performance defects reported by drivers to identify potential safety and reliability items requiring immediate attention. The Contractor shall develop, implement and maintain a written checklist of items included in the daily servicing of the vehicles. The checklist shall be utilized and kept on file for City and California Highway Patrol (CHP) review at any time during regular business hours. The checklist requirement may incorporate or supplement CHP required driver's pre-trip safety inspections.

5.3. Vehicle Cleaning: The Contractor shall maintain all vehicles in a clean and neat condition at all times.

The interior of the vehicles shall be kept free of litter and debris to the maximum practicable extent throughout the operating day. Vehicles shall be swept and dusted daily. Interior panels, windows, and upholstery shall be cleaned of marks as necessary. The interiors of all vehicles shall be thoroughly washed at least once per week, including all windows, seats, floor, stanchions, and grabrails. All foreign matter such as gum, grease, dirt, and graffiti shall be removed from interior surfaces during the interior cleaning process. Any damage to seat upholstery shall be repaired at the end of each day. Ceilings and walls shall be thoroughly cleaned at least once per month, or more often as necessary. Destination sign interior glass shall be cleaned as necessary to maintain a clean appearance and maximize visibility.

The exteriors of vehicles shall be washed as required to maintain a clean, inviting appearance and in no event less than once per week. Exterior washing shall

include the bus body, all windows, and wheels. Rubber or vinyl exterior components such as tires, bumpers fascia fender shirts, and door edge guards shall be cleaned and treated with a preservative at least once per month, or as often as necessary to maintain an attractive appearance. The bus exterior shall be waxed once every six (6) months.

The vehicles shall be kept free of vermin and insects at all times. The Contractor shall exterminate all vermin and insects from the vehicles immediately upon their discovery, utilizing safe and non-hazardous materials.

5.4. Preventive Maintenance: The Contractor shall develop and implement a preventive maintenance program. At a minimum, the Agreement's preventive maintenance program shall adhere to the preventive maintenance schedules and standards of the industry, and shall meet the manufacturer's specifications and be sufficient so as not to invalidate or lessen warranty coverage of the vehicles. Adherence to preventive maintenance schedules shall not be regarded as reasonable cause for deferred maintenance in specific instances where the Contractor's employees observe that maintenance is needed in advance of schedule.

The Contractor shall not defer maintenance for any reason without the prior written consent of the City. The Contractor shall adjust the work schedule of its employees as necessary to meet all scheduled services and complete preventive maintenance activities according to the schedule. All parts used for preventive maintenance shall be new and meet manufacturer's specifications.

The City, at its own expense, may inspect the vehicle(s) to ensure that regular preventive maintenance is being performed.

5.5. Vehicle Repairs: All repairs to the vehicles shall be performed by the Contractor or by other vendors and suppliers and shall be included in the final Agreement cost. Repairs shall include, but not be limited to, work to correct loss or damage; adjustments due to normal wear and tear; and overhaul, rebuilding or replacement of components. All required parts shall be new and meet manufacturer's specifications.

Repair work shall be conducted as soon as practicable upon learning that such work is required. The Contractor shall perform repair work expeditiously in response to identification of problems by drivers or other staff members. The Contractor shall assure the City that required repairs shall not be deferred beyond a reasonable time.

The Contractor shall be familiar with vehicles and equipment warranties and shall comply with all warranty provisions in the conduct of maintenance.

5.6. Vehicle Towing: In the event that towing of a vehicle is required due to mechanical failure or damage, the Contractor shall be responsible to provide such towing at the Contractor's sole expense.

5.7. Maintenance Records and Reports: The Contractor shall prepare, maintain, and make available to the City, the CHP and/or such other regulatory agencies with jurisdiction records and data relative to vehicle maintenance. Maintenance records shall be maintained on all vehicles indicating all warranty work, preventive maintenance, and repairs performed on each vehicle. All such records and reports shall be prepared and maintained in such a manner to fulfill any applicable state or federal requirements, as well as any needs of the City to enable it to evaluate accurately the Contractor's maintenance performance and the operating expense associated with the services provided under this Agreement.

The City maintains the right to inspect, examine and test, at any reasonable time, any vehicles used in performance of this Agreement and any equipment used in the performance of maintenance work in order to ensure compliance with this Agreement. Such inspection shall not relieve the Contractor of the obligation to monitor continually the condition of all vehicles and to identify and correct all substandard or unsafe conditions immediately upon discovery.

The Contractor shall prepare and maintain records and reports that shall include, but not limited to, the following:

A. Daily vehicle inspection and servicing checklists.
B. Work orders for all maintenance inspections, warranty repairs and other vehicle repairs including materials, parts and labor consumed.
C. Roadcall reports, or work order, for each roadcall identifying date and time, vehicle number, problem and mileage of vehicle.
D. Monthly summary of vehicle miles, vehicle miles since last preventive maintenance inspection, a list of any vehicle repairs made, number and length of time a back-up vehicle was used, and vehicle roadcalls.

SECTION 6. DRIVERS

Drivers are required to possess a valid California Class B driver's license for the operation of the type of vehicles to be used. The Contractor shall provide thorough training for all personnel for the proper performance of their duties. Drivers shall also be thoroughly trained on the use of all equipment required under this Agreement, including the Contractor's backup vehicles.

At a minimum, drivers shall be required to: wear an approved uniform of clean and neat appearance, be helpful and courteous, ensure that fares are collected and deposited in the farebox, assist senior citizens and disabled passengers, refuse rides to unruly

passengers, stay on schedule, obey all traffic laws, and enforce all City transit passenger rules. Drivers shall not smoke in the vehicles or allow passengers to do the same.

City shall have the right, contingent upon the Contractor's personnel policy guidelines, to ask for the temporary or permanent removal of any personnel furnished by Contractor for any reasonable cause (not to be construed as requesting removal from Contractor's employment). Contractor shall submit a copy of its current personnel policy guidelines with this Agreement and any amendments thereto. All personnel shall be employees of Contractor and Contractor shall be solely responsible for payment of all employees' wages and benefits. Contractor, without any expense to City, shall faithfully comply with the requirements of all applicable laws with respect to employee liability, workers' compensation, unemployment insurance and other forms of social security. Contractor shall also be responsible for withholding of income tax at its source from employees' wages and, furthermore, the Contractor shall indemnify and hold harmless the City and the State of California from any liability, damages, claims, costs, and expenses of any nature arising from alleged violation of such laws.

Contractor shall provide thorough training for all personnel for the proper performance of their duties. Contractor must have a training program encompassing the National Safety Council Defensive Driving Course. This program should also direct itself to dealing specifically with transporting the elderly and mobility impaired. All new employees shall receive proper training and instruction at the time of hiring and prior to being assigned to the service. This training program must be described fully and submitted to City for review within ten (10) days of Agreement approval by the City.

The Contractor shall require pre-employment medical examinations, including drug and alcohol testing, for all prospective drivers and other safety sensitive employees of the Contractor. Any person who has not successfully passed such an examination shall not be permitted to operate a vehicle in any service performed under Agreement to the City. Additionally, the Contractor must have an anti-drug program established for employees under the congressionally mandated Drug-Free Workplace Act. The required anti-drug program would include, in addition to the pre-employment testing, testing after an accident, when there is reasonable cause, periodically, every two (2) years upon receipt or renewal of the Department of Motor Vehicles Medical Examiner's Certificate, and before returning to duty to perform sensitive safety functions after a positive drug test.

The Contractor shall comply with the Congressionally Mandated Drug-Free Workplace Act of 1988, by providing certification that (a) the drug free workplace actions shall be implemented, and (b) those actions are being/have been implemented.

SECTION 7. BUS OPERATION RECORDS AND REPORTS

The Contractor shall be required to maintain ridership and operations records for this service as deemed necessary by the City.

The Contractor shall be responsible for submission of monthly service summary reports to the City. These reports, to be submitted by the Contractor within fifteen (15) days of the end of each calendar month, shall include, but not limited to, the following:

A. Listing of all vehicles in service.
B. Date, time, and length of time for any service disruptions.
C. Corrective actions taken for breakdowns and roadcalls.
D. A monthly summary of vehicle miles, vehicle miles since last preventive maintenance inspection, a list of any vehicle repairs made, number and length of time a backup vehicle was used, and vehicle roadcalls.
E. Total passenger counts by demographic category and fare (student, adult, senior citizen, handicapped, etc.) by day.
F. Passenger counts by payment method (cash, one-way ticket, and discounted passes) by day.
G. Missed or abbreviated route trips; unusual incidents while on duty.
H. From time to time, at the City's request, the Contractor shall record passenger activity per stop.

SECTION 8. FARES

The Summer Beach Bus is a general public transportation service and passengers must pay a fare. The Contractor shall collect fares in accordance with fare policies as set by the City. The fares collected shall be recorded and submitted to the City at the end of each service day along with the fare collection sheet for that day. Most excursion and charters sponsored by the Recreation Division, such as Camp Moorpark and Active Adult Center will not have fares that the Contractor has to collect.

SECTION 9. CONTACT INFORMATION

Contractor shall provide the City with emergency and after hours contact telephone numbers and pagers that the City may use as necessary to communicate with the Contractor after normal working hours.

SECTION 10. RADIO COMMUNICATION

The Contractor shall provide to the vehicles the necessary communication equipment to allow for communication between the driver and the Contractor's maintenance facility.

The Contractor shall notify the City, at the first available opportunity, of any vehicle breakdowns or other problems that may cause schedule delays.

SECTION 11. SPECIAL SERVICES

From time to time the City may wish to expand the hours or the days of services to the community. With twenty-four (24) hours written notice, Contractor shall provide the special service using the Agreement vehicles, at the regular hourly rate.

APPENDIX B
PROPOSAL COST FORM AND ADDENDA

FOR ALL SERVICES DESCRIBED IN THE SCOPE OF SERVICES

In response to the Request for Proposals for Bus Excursion and Charter Services from the City of Moorpark, the undersigned agrees to provide services in accordance with these Documents, which have been carefully examined. The City, at its sole option, may contract with more than one bus operator or expand or reduce services during the term of the Agreement. Pricing shall not be adjusted if services in the Scope of Services (Appendix A) are reduced or expanded during the term of the Agreement.

Cost – Bus Excursion and Charter Services.

Bus Excursions -			
Cost Per Hour	**Five (5) Hour Cost**	**Each Additional Hour**	**Year**
			2011
			2012
			2013

The undersigned understands that any conditions placed on the items stated above, clarification made to the above, or information submitted on or with this form (other than that requested) shall render the proposal unresponsive. If awarded the Agreement, the undersigned hereby agrees to sign said Agreement and to furnish all necessary certificates.

PROPOSER:_____

CONTACT:_____

TITLE:_____

ADDRESS:_____

TELEPHONE:_____ EMAIL:_____

SIGNATURE:_____ TITLE:_____

ADDENDA

Proposer 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 C
PROPOSER REFERENCE FORMS - PARTS I AND II

PART I

GENERAL INFORMATION:

1. NAME_____

2. Proposer is a: (circle one)

   Corporation / Partnership / Association / Sole Proprietorship

3. Proposer's address and Telephone Number:

   _____

   _____

   _____

4. Name, Title, Telephone Number, and Email Address of Proposer's Authorized Representative:

   _____

   _____

   _____

5. Proposer's Credit References: (Include names, addresses, and telephone numbers of at lease three references, one of which must be the Proposer's bank)

A. _____
_____
_____

B. _____
_____
_____

C. _____
_____
_____

PART II
Client List for Transportation Services Currently and/or Previously Provided:

1. **Client Name:**_____

Client Address:_____

_____

Contact Person:_____

Telephone Number:_____

Period of Service:_____

2. **Client Name:**_____

Client Address:_____

_____

Contact Person:_____

Telephone Number:_____

Period of Service:_____

3. **Client Name:**_____

Client Address:_____

_____

Contact Person:_____

Telephone Number:_____

Period of Service:_____

APPENDIX D
VEHICLE IDENTIFICATION FORMS - PARTS I and II

PART I - VEHICLE INFORMATION (NEW VEHICLES)

All Proposers shall provide the following information for each vehicle that the Proposer proposes to use in this project. Proposers must submit photographs of vehicle exteriors and depictions of interior seating configuration, to be attached to this form.

1. Primary or Backup Vehicle _____
2. Vehicle Mileage _____
3. Vehicle Type/Model/Manufacturer _____
4. Date of Manufacture _____
5. Passenger Seating Capacity _____
6. Gross Vehicle Weight Rating _____
7. Engine/Transmission Type _____
8. Overall Length _____
9. Exterior Width _____
10. Interior Height _____
11. Aisle Width _____
12. Step Height from Ground _____
13. Destination Signs (Describe Location and Functions):

_____

14. Wheelchair Equipment (Describe Type/Model/Manufacturer and attach photograph):

_____

_____

_____

If any used vehicles are proposed, complete Part II of this form.

APPENDIX D (continued)

PART II - STATEMENT OF CONDITION FOR USED VEHICLES

If used vehicles are proposed for use in this project, this form shall be completed for each vehicle proposed. Proposer must submit photographs of vehicle exteriors and depictions of interior seating configuration, to be attached to this form.

1. Primary or Backup Vehicle _____

2. Vehicle Type/Model/Manufacturer _____

3. Date of Manufacture _____

4. Passenger Seating Capacity _____

5. Gross Vehicle Weight Rating _____

6. Engine/Transmission Type _____

7. Vehicle Length and Exterior Width _____

8. Interior Height and Aisle Width _____

9. Step Height from Ground _____

10. Destination Signs (Describe Location and Functions):

_____

_____

_____

11. Wheelchair Equipment (Describe Type/Model/Manufacturer and attach photograph):

_____

_____

_____

12. Total Accumulated Vehicle Mileage:_____

    Date of Odometer Reading:_____

13. Nurnber of Miles and Hours on Engine and Transmission Since Last Overhaul:

    _____

14. Tire Condition: (circle one) New Used Recapped

    Comments:_____

APPENDIX E

LIST OF SUBCONTRACTORS
(FILE IF APPLICABLE)

Name of Subcontractor	Address/Phone	Items of Work

APPENDIX F
AGREEMENT

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 "Contractor".

WITNESSETH

The Parties hereto do agree as follows:

1. Term – The term of this Agreement shall be from the date executed above, and shall continue in effect until the completion of the project on May 31, 2014.

2.1 Incorporation by Reference – Appendix A (Scope of Services), Appendix B (Proposal Cost Form), Appendix C (Proposer Reference Forms), Appendix D (Vehicle Identification Forms), Appendix E (List of Subcontractors), Attachment 1 (Insurance Requirements), and the City's Request for Proposal are hereby incorporated and made a part of this Agreement.

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.

2.3 Entire Agreement – This Agreement contains all of the covenants and agreements between the parties with respect to the rendering of bus excursion and charter bus services by Contractor 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.

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. Definitions – "Passenger" shall mean any person utilizing the services provided by the Contractor as described in Appendix A.

"Vehicle" or "backup vehicle" shall mean a bus or van designated by the Contractor for use in providing services under this Agreement, including but not

limited to a primary vehicle, an additional wheelchair accessible vehicle and a backup or replacement vehicle if needed due to a mechanical breakdown, traffic incident, or any reason whatsoever to provide transportation services under this Agreement. The backup or replacement vehicle shall be equipped with a wheelchair lift and be of the size, capacity, and design specified in Appendix A, or, there shall be a secondary wheelchair accessible vehicle that will serve as a backup vehicle to the primary wheelchair accessible vehicle. All vehicles shall be in a safe and good working order. The City shall have the right to approve the suitability of any vehicle used by the Contractor under this Agreement.

4. Compensation – Compensation for services to be performed by the Contractor shall not exceed the daily rate submitted in the Contractor's Cost Proposal Form in Appendix B without additional authorization by the City. Services shall be billed in accordance with Contractor's proposal as it is accepted by the City. The City shall only pay for services actually rendered. Services rendered shall specifically exclude time for travel to and from the Contractor's storage facility and downtime for road assistance.

   If the Contractor fails to complete the work, fails to provide service for an entire day, or causes a default as specified in Section 5, Liquidated Damages, the City may, at its sole option, notwithstanding other rights and remedies, assess the Contractor at the hour rate detailed in Appendix B for the respective year and at the same rate for each fraction of an hour rounding up the nearest quarter hour, beginning at onset of service failure or time of an incident that causes service to be interrupted. This assessment shall be deducted from any payment(s) due or to become due to Contractor under the terms of this Agreement. NO payment by City shall be construed as a waiver of City's rights to deduct the assessment and the assessment may be deducted from any subsequent payment.

   Contractor shall submit to the City a written invoice for services rendered fifteen (15) days following the end of the month for which services were rendered. Invoices shall be accompanied with attachments specified in Appendix A. The City agrees to pay the amount due to the Contractor within thirty-five (35) days following the receipt of said invoice.

5. Liquidated Damages – Contractor shall operate strictly according to the most current bus schedule provided by City and to a reasonable on-time performance standard except where service is interrupted for those reasons stated hereinafter. Service shall be provided as scheduled or according to any adjusted schedule established by City, including route modifications required.

   The City may assess liquidated damages for the following defaults:

   (1) If the driver begins or ends a route late by more than twenty (20) minutes; or
   (2) If the driver departs from a stop prior to the designated departure time; or
   (3) If the vehicle in use on the route runs out of fuel; or

(4) If the driver deviates from a route or fails to follow the route as scheduled; or
(5) If a vehicle is not properly inspected or cleaned prior to use on the route; or
(6) If the driver fails to complete a route due to vehicle or driver failure, mechanical failure; or
(7) If the driver fails to stop for a passenger at a designated stop; or
(8) If the driver fails to pickup or assist a disabled rider that requires assistance to board and alight from the bus.

The Contractor agrees that any of the above defaults will result in damage and injury to the City. The City and Contractor agree that actual damages occurring to the City because of any one or more of such defaults, on a given day, will be difficult if not impossible to ascertain with any degree of certainty or accuracy. Accordingly, the City and the Contractor have negotiated and have agreed that for each calendar day during which one or more defaults occur that the Contractor shall pay to the City, as and for liquidated damages, and not as a penalty, a sum equal to the hourly rate per vehicle compensation due to the Contractor pursuant to Appendix B of this Agreement for each hour during which the incident causing the default occurs.

Said payment for liquidated damages shall be deducted from any payments due or to become due to Contractor under the terms of this Agreement. No payment by City shall be construed as a waiver of City's right to deduct liquidated damages which may be deducted from any subsequent payment.

Contractor shall be excused from performance of the above liquidated damages during the time and to the extent that Contractor is prevented from performing in the customary manner by an act of God, fire, flood, war, riot, civil disturbance, vandalism, terrorism, epidemic, quarantine, strike, lockout, labor dispute, oil or fuel shortage, freight embargo, rationing or unavailability of materials or products, loss of transportation facilities, commandeering of equipment, materials, products, plants, or facilities of government, or any other occurrences or circumstances which are beyond the control of the Contractor.

6. City Obligations – City agrees to comply with all reasonable requests of the Contractor relative to, and provide access to all documents reasonably necessary for, the performance of Contractor's duties under this Agreement. City shall be responsible for approving all trip routes, time schedules, and fares. City reserves the right to change time schedules.

7 Contractor's Obligations – For and in consideration of the payments and agreements herein before mentioned to be made and performed by City, Contractor agrees with City to provide services as specified and to do everything required by this Agreement, the said Appendixes and Attachments thereof. Without limiting the generality of the foregoing, Contractor 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.

8. Background Checks – Contractor shall be registered with the Department of Justice as a Human Resources Agency. Contractor shall at a minimum perform background checks on drivers utilizing a vendor such as Live Scan to ensure that drivers with inappropriate backgrounds are not employed to provide services under this Agreement. Drivers shall have no felony conviction history.

9. Licenses and Registrations – At all times during the term of this Agreement, Contractor 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, including a City Business Registration.

10. Indemnification – Contractor shall indemnify, defend, and hold harmless the City, and its officers, employees, and agents ("Indemnitiees"), from and against any and all causes of action, claims, liabilities, obligations, judgments, or damages, including reasonable attorneys' fees and costs of litigation ("Claims"), arising from Contractor's activities in the performance of the services under this Agreement, excepting only those actions, claims, liabilities, obligations, judgments, or damages arising out of the sole negligence of the City Indemnitiees. In the event the City Indemnitiees are made a party to any action, lawsuit, or other adversarial proceeding alleging negligent or wrongful conduct on the part of the Contractor:

    A. The Contractor shall provide a defense to the Indemnitiees or at the City's option reimburse the Indemnitiees their costs of defense, including reasonable attorneys' fees, incurred in defense of such claims; and

    B. The Contractor shall promptly pay any final judgment or portion thereof rendered against the Indemnitiees.

11. Insurance – The Contractor shall maintain prior to the beginning of, and for the duration of this Agreement, insurance coverage as specified in Attachment 1.

12. Independent Contractor – Contractor is and at all times shall remain, as to the City, a wholly independent Contractor. Contractor shall not, at any time or in any manner, represent that he is an officer, employee or agent of the City. Contractor shall comply with all applicable provisions of the Workers' Compensation Insurance and Safety Acts and Labor Code of the State of California.

13. 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.

14. Termination and Suspension – This Agreement, or portions thereof, may be terminated, canceled or suspended in any one of the following manners:

1) By mutual written agreement of the parties.
2) Upon ten (10) days written notice by City or thirty (30) days written notice by Contractor, with or without cause.
3) If in the sole subjective judgment of City at any time or times after the commencement of the term of this Agreement, Contractor fails to perform the services required to be provided in accordance with the terms hereof, or fails to comply with any of the requirements and terms of this Agreement the City, upon at least seventy-two (72) hours written notice to Contractor, and without prejudice to any other remedies the City may have, may terminate Contractor's services and any obligations the City may otherwise have under this Agreement. The written notice shall instruct Contractor to cease its services as of a specified day, and City shall have no further obligation to pay for services tendered or otherwise after such date.
4) If in the sole subjective judgment of City at any time or times after the commencement of the term of this Agreement Contractor fails to maintain in force throughout the term of this Agreement, including any extensions thereof, the insurance coverage required herein, or Contractor effects any willful acts or omissions that endanger the public health and safety, the City may immediately, without prior notification, and without prejudice to any other remedies the City may have, suspend Contractor's services and any obligations the City may otherwise have under this Agreement. Upon receiving written notice of immediate suspension, Contractor shall have up to fourteen (14) days to cure or remedy cause for suspension; however the City may, at the City's sole discretion, terminate this Agreement within the suspension period. Should the Contractor cure or remedy the cause for suspension, and the cure or remedy is accepted, in writing, by the City, Contractor may resume services.

15. Ownership of Reports and Data – At the time of 1) termination of this Agreement or 2) conclusion of all work, all original reports, documents, calculations, computer files, notes, and other related materials whether prepared by Contractor or its subcontractor(s) or obtained in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of City. Any word processing computer files provided to City shall use Microsoft Word or Windows software..

16. Assignment – Contractor shall not assign this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the City Manager. Only qualified Contractor employees, as described in the Scope of Services (Appendix A), shall perform driver services provided for in this Agreement.

17. 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.

18. Non-Discrimination – In the performance of the terms of this Agreement, the Contractor agrees that it shall not engage in, nor permit such subcontractors as it may retain to engage in, discrimination in employment of persons because of age, race, color, creed, sex, sexual orientation, national origin or ancestry, religion, or marital status of such person(s). Violation of this provision may result in the imposition of penalties referred to in the Labor Code of the State of California Section 1735.

19. 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 an applicable court in Ventura County, California.

20. 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.

21. Public Domain – All products used or developed in the execution of this Agreement shall remain in the public domain at the completion of the Agreement.

22. Audit – City shall have the option of inspecting and/or auditing all records and other written materials used by Contractor in preparing its statements to City as a condition precedent to any payment to Contractor.

23. 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.

24. 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.

25. Captions and Headings – The captions and headings of the various Articles and Paragraphs of this Agreement are for convenience and identification only and shall not be deemed to limit or define the content of the respective Articles and Paragraphs hereof.

26. Notice – Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by 1) personal service, 2) delivery by a reputable document delivery service, which provides a receipt showing date and time of delivery, or 3) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by notice:

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

Contractor:

27. Authority to Execute Agreement – Both City and Contractor 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.

28. Responsible Individuals – The individual directly responsible for Contractor's overall performance of the Agreement provisions above set forth and to serve as principal liaison between Contractor and City shall be _____, or designee.

The City Manager, or his designee, shall represent the City in all matters pertaining to the administration of this Agreement, and review and approval of all work to be performed by the Contractor pursuant to this Agreement. The City Manager is authorized to act on City's behalf to execute all necessary documents that increase the Scope of Services or change Contractor's compensation.

29. Conflicts of Interest – Contractor agrees not to work for any private firm located within the City limits or its Area of Interest, or for any public agency where its jurisdiction includes all or part of the City without the prior written consent of the City, during the term of this Agreement. Further, Contractor agrees to limit its actions related to economic interest and potential or real conflicts of interest as such as defined by applicable State law to the same standards and requirements for designated City employees.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

CITY OF MOORPARK

_____
Steven Kueny, City Manager

Date:_____

ATTEST

_____
Maureen Benson, City Clerk

CONTRACTOR

_____
Name, Title

Date:_____

ATTACHMENT 1
INSURANCE REQUIREMENTS

Prior to the beginning of and throughout the duration of Work, Contractor will maintain insurance in conformance with the requirements set forth below. Contractor will use existing coverage to comply with these requirements. If that existing coverage does not meet requirements set forth here, Contractor agrees to amend, supplement or endorse the existing coverage to do so. Contractor 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.

Contractor 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 $5,000,000 per occurrence for all covered losses and no less than $10,000,000 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 $5,000,000 per accident. If Contractor owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If Contractor or Contractor's employees will use personal autos in any way on this project, Contractor 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. 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 Contractor, subcontractors 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 $10,000,000 aggregate.

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 Contractor. Contractor and the City agree to the following with respect to insurance provided by Contractor:

1. Contractor 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. Contractor also agrees to require all contractors and subcontractors to do likewise.

2. No liability insurance coverage provided to comply with this Agreement shall prohibit Contractor, or Contractor's employees, or agents, from waiving the right to subrogation prior to a loss. Contractor 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. Contractor shall not make any reductions in scope of coverage (e.g. elimination of contractual liability or reduction of discovery period, types of insurance, limits of insurance, or indemnity) 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 Contractor'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

or reduced at any time and no replacement or supplemental 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 Contractor or deducted from sums due Contractor, at the City's option.

8. Certificate(s) are to reflect that the insurer will provide 30 days notice to the City of any reduction or cancellation of coverage. Contractor 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 Contractor 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. Contractor agrees to ensure that subcontractors, and any other party involved with the Work who is brought onto or involved in the Work by Contractor, provide the same minimum insurance required of Contractor. Contractor 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. Contractor agrees that upon request, all agreements with subcontractors and others engaged in the Work will be submitted to the City for review.

11. Contractor 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 Contractor'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 Contractor, 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 Contractor 90 days advance written notice of such change. If such change results in substantial additional cost to the Contractor, 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. Contractor acknowledges and agrees that any actual or alleged failure on the part of the City to inform Contractor 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. Contractor 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. Contractor 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. A coverage binder or letter from Contractor'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 Contractor under this Agreement. Contractor 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. Contractor 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 Contractor 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. Contractor agrees to provide immediate notice to City of any claim or loss against Contractor 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.

PLACE ATTACHMENT 1A HERE
(SAMPLE ENDORSEMENT)

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   1A. Sample Endorsement