

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: Honorable City Council

FROM: David C. Moe II, Redevelopment Manager *DM*

BY: Ky Spangler, Special Projects Consultant *Ky*

DATE: April 6, 2011 (City Council Meeting of 4/20/11)

SUBJECT: Consider Award of Bid and Project Approval for the Construction of a Security/Retaining Wall Along the South Metrolink Parking Lot

BACKGROUND & DISCUSSION

The south Metrolink parking lot located off of Moorpark Avenue north of First Street is owned by the Ventura County Transportation Commission ("VCTC") and managed by the City of Moorpark ("City"). A project to construct an eight-foot tall security/retaining block wall, approximately 575 linear feet long, along the south boundary adjacent to homes on First Street has been initiated in a cooperative effort between VCTC and the City.

The City has been managing this project through coordination of the engineering design, preparation of geotechnical reports, permitting of the wall, and preparation and issuance of a Bid Specification Manual.

The project will be funded by a combination of Proposition 1B funds (\$100,000), and Federal Transit Administration (FTA) grant funds (\$79,000) administered by VCTC. The FTA grant funding amount includes a 20 percent (20%) match by the City. In order to capture the Proposition 1B grant funds, construction of the wall must be completed no later than June 30, 2011. The Proposition 1B funds received from the State are included in Fund 2612 within the adopted Fiscal Year 2010/11 Budget.

A notice inviting bids for the construction of this wall was published on March 15, 2011 and March 22, 2011. A mandatory job walk was held on March 25, 2011 and was attended by 16 contractors. Four Bid Clarification Notices were issued to all bidders in response to questions posed at the job walk or submitted via email to ensure that all specifications and bid requirements were understood. No Bid Addendums were issued. Eight bids were received by the due date of April 7, 2011.

The results are:

Aguilera Brothers Construction	\$111,000.00
Alliance Builders	\$135,000.00
Draper Construction	\$161,581.00
Falcon Builders, Inc.	\$81,160.00
JEvans Construction, Inc.	\$147,000.00
Malibu Pacific Tennis Courts	\$198,000.00
Mendez Concrete, Inc.	\$140,962.00
Pacific Construction Inc.	\$256,900.00

The proposals were evaluated on their completeness and cost. Based on the bid evaluation, the low bidder is Falcon Builders, Inc. The low bidder was contacted to confirm all bid clarifications were received and understood, and that the bidder was certain that the specified insurance coverages could be provided as required pursuant to the bid documents. Falcon Builders, Inc. confirmed they were confident in their understanding of the scope of work, their ability to provide insurance coverage, and to perform under the bid document requirements. Falcon Builders, Inc. possesses the necessary qualifications, resources, and experience to perform the work.

In order to receive FTA grant reimbursement for the project, construction of the wall must be completed by June 30, 2011. Should the low bidder fail or refuse to execute the contract within five (5) days of the award as stipulated in the bid documents, there would be insufficient time for staff to bring back a request to Council to award to the second low bidder and allow for construction to be completed by June 30. So that the City does not forfeit any grant funding for the construction, staff is requesting the City Council consider a "provisional award" of the bid to Falcon Builder, Inc. as provided in section 20174 of the Public Contract Code. Section 20174 states that:

"The city council may, on refusal or failure of the successful bidder to execute the contract, award it to the next lowest responsible bidder. If the legislative body awards the contract to the second lowest bidder, the amount of the lowest bidder's security shall be applied by the city to the difference between the low bid and the second lowest bid, and the surplus, if any, shall be returned to the lowest bidder if cash or a check is used, or to the surety on the bidder's bond if a bond is used."

Should Falcon Builders, Inc. not perform within the necessary timeframe, the Council's "provisional award" would permit staff to proceed pursuant to section 20174, to move to the next low bidder, and continue with the contracting process.

ENVIRONMENTAL DOCUMENTATION

As this project involves removal of encroachments and the new construction of approximately 575 linear feet of eight-foot tall block wall, and there is no reasonable possibility that it would result in a significant effect on the environment, either individually or cumulatively in consideration of other reasonably foreseeable projects, it is the Community Development Director's determination that the project is categorically exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to Section 15301(l)(1) & (4) of the CEQA Guidelines. If this project is approved, staff will file a Notice of Exemption with the County Clerk.

FISCAL IMPACT

The project will be funded with a combination of Proposition 1B funds and FTA grant funds. There is \$100,000 in the Prop 1B Fund (2612) which was received in Fiscal Year 2008/09. Additionally, FTA funds of approximately \$79,000 are budgeted in the Local Transit Fund (5000) for use on this project. (The City's 20 percent (20%) match equals \$15,800 of the \$79,000).

To date, a total of \$4,895 of the total project budget has been expended toward wall design and engineering: \$1,975 has been paid for construction staking services from Fund 2612; and \$1,920 for wall engineering design and \$1,000 for geotechnical report updates has been paid for from Fund 5000.

It is anticipated that the Prop 1B funds will be spent first with the remainder coming from the Local Transit Fund. Upon completion and acceptance of construction, the City will provide VCTC with the appropriate back up documentation to seek reimbursement of any FTA grant funds expended. Staff time expended can also count towards the City's FTA 20 percent (20%) funding match.

STAFF RECOMMENDATION

- 1) Approve the construction of approximately 575 feet of eight-foot tall block wall along the boundary of the south Metrolink parking lot; and
- 2) "Provisionally award" the bid pursuant to section 20174 of the Public Contract Code to Falcon Builders, Inc. for \$81,160.00, plus a ten percent (10%) project contingency and authorize execution of the Agreement by the City Manager, subject to final language approval by the City Manager and City Attorney; and

- 3) In the event the first low bidder is unable or refuses to perform as stated, authorize staff to move forward and award the bid to the second lower bidder, Aguilera Brothers Construction, for \$111,000, plus a ten percent (10%) project contingency and authorize execution of the Agreement by the City Manager, subject to final language approval by the City Manager and City Attorney.

Attachment 1 – Agreement

ATTACHMENT 1

**AGREEMENT BETWEEN THE CITY OF MOORPARK AND
FALCON BUILDERS, INC, FOR CONSTRUCTION OF SECURITY/RETAINING
WALL AT 300 HIGH STREET, MOORPARK, CA**

THIS AGREEMENT, is made and effective as of this _____ day of _____, 2011, between the City of Moorpark, a municipal Corporation ("City") and Falcon Builders, Inc., a California corporation ("Contractor"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

WHEREAS, City has the need for construction services to construct a security/retaining wall at 300 High Street, Moorpark, CA (also known as the Metrolink South Parking Lot); and

WHEREAS, Contractor specializes in providing such services and has the proper work experience, certifications and background to carry out the duties involved; and

WHEREAS, the City Council of the City of Moorpark at a meeting held on the 20th day of April, 2011, authorized the City Manager to enter into this Agreement after public bidding in accordance with California Public Contract Code Section 20160, et seq.

NOW, THEREFORE, in consideration of the mutual covenants, benefits and premises herein stated, the parties hereto agree as follows:

1. TERM

The term of the Agreement shall be from the date of execution to completion of the work identified in the Scope of Services and in conformance with Exhibit B, unless this Agreement is terminated or suspended as referred to herein.

2. SCOPE OF SERVICES

City does hereby retain Contractor in a contractual capacity to provide construction services as set forth in Exhibit B - Contractor's Bid Proposal, dated April 6, 2011, which exhibit is attached hereto and incorporated herein by this reference as though set forth in full and hereinafter referred to as the "Proposal." Where said Proposal is modified by this Agreement, or in the event there is a conflict between the provisions of said Proposal and this Agreement, the language contained in this Agreement shall take precedence.

Contractor shall perform the tasks described and set forth in Exhibit B attached hereto and incorporated herein by this reference as though set forth in full. Contractor shall complete the tasks according to the requirements of the bid manual which is set forth in Exhibit C.

Compensation for the services to be performed by Contractor shall be in accordance with Exhibit B and C, attached hereto and incorporated herein by this reference as though set forth in full. Compensation shall not exceed the rates or total contract value as stated in Exhibit B, without the written authorization of the City Manager of the City of Moorpark. Payment by City to Contractor shall be as referred to herein.

3. INCORPORATION BY REFERENCE

Notice Inviting Bids, Instructions to Bidders, Public Contract Code Section 22300, General Conditions, Special Specifications (Federal Transit Administration [FTA] Requirements), Technical Specifications, and Bid Clarification Notices 1, 2, 3 & 4 (issued March 31, 2011; April 4, 2011; and April 5, 2011), Bidder's Proposal, Plans, Standard Specifications for Public Works Construction ("Greenbook"), Drawings, Project Bid Manual and Specifications, Required Bonds and Forms, Permits, Exhibits A, B, and C, and all applicable codes and regulations are hereby incorporated in and made part of this Agreement. The provisions of the Greenbook shall apply to this Project except as may be modified by other provisions of the Agreement.

4. PRECEDENCE

If there is a conflict between or in the Agreement documents, the precedence shall be as outlined in Section 2-5.2 of the latest Greenbook.

5. PERFORMANCE

Contractor shall at all times faithfully, competently and to the best of his/her ability, experience, and talent, perform all tasks described herein. Contractor shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing similar services as are required of Contractor hereunder in meeting its obligations under this Agreement.

6. CITY MANAGEMENT

The individual directly responsible for Contractor's overall performance of the Agreement provisions herein above set forth and to serve as principal liaison between City and Contractor shall be John A. Mercer, and no other individual may be substituted without the prior written approval of the City Manager.

The City's contact person in charge of administration of this Agreement, and to serve as principal liaison between Contractor and City, shall be the City Manager or his/her designee.

7. PAYMENT

The City agrees to pay Contractor monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B, attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. This amount shall not exceed eighty-one thousand one hundred and sixty dollars (\$81,160.00) plus ten percent (10%) contingency of eight thousand one hundred and sixty dollars (\$8,160.00) for the total term of the Agreement unless additional payment is approved as provided in this Agreement.

Contractor shall not be compensated for any services rendered in connection with its performance of this Agreement, which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager. Contractor shall be compensated for any additional services in the amounts and in the manner as agreed to by City Manager and Contractor at the time City's written authorization is given to Contractor for the performance of said services. The City Manager is authorized by the City Council to approve additional work not to exceed the ten percent (10%) contingency amount stated above.

Contractor shall submit invoices monthly for actual services performed. Invoices shall be submitted on or about the first business day of each month, or as soon thereafter as practical, for services provided in the previous month. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. Any expense or reimbursable cost appearing on any invoice shall be accompanied by a receipt or other documentation subject to approval of the City Manager. If the City disputes any of Contractor's fees it shall give written notice to Contractor within thirty (30) days of receipt of any disputed fees set forth on the invoice.

8. APPRENTICESHIP

Contractor shall comply with all provisions of Labor Code Section 1777.5.

9. TERMINATION OR SUSPENSION WITHOUT CAUSE

The Contractor's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Contractor is in default for cause under the terms of this Agreement, City shall have no obligation or duty to continue compensating Contractor for any work performed after the date of default and can terminate this Agreement immediately by written notice to the Contractor. If such failure by the Contractor to make progress in the performance of work hereunder arises out of causes beyond the Contractor's control, and without fault or negligence of the Contractor, it shall not be considered a default.

10. DEFAULT OF CONTRACTOR

If the City Manager or his/her delegate determines that the Contractor is in default in the performance of any of the terms or conditions of this Agreement, he/she shall cause to be served upon the Contractor a written notice of the default. The Contractor shall have five (5) working days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that the Contractor fails to cure its default within such period of time, the City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

11. LIQUIDATED DAMAGES

If the Contractor fails to complete the work, or any portion thereof, within the time period required by this Agreement or as duly extended in writing by the City Manager, he/she shall forfeit and pay to the City of Moorpark, as liquidated damages, the sum of one thousand dollars (\$1,000.00) per day for each calendar day the work, or portion thereof, remains uncompleted after the above specified completion date. Liquidated damages shall be deducted from any payments due or to become due to the Contractor under the terms of this Agreement [Govt C. Sec. 53069.85]. Progress payments made by the City after the above specified completion date shall not constitute a waiver of liquidated damages by the City.

12. OWNERSHIP OF DOCUMENTS

Contractor shall maintain complete and accurate records with respect to sales, costs, expenses, receipts, and other such information required by City that relate to the performance of services under this Agreement. Contractor shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Contractor shall provide free access to the representatives of City or its designees at reasonable times to such books and records; shall give the City the right to examine and audit said books and records; shall permit City to make transcripts therefrom as necessary; and shall allow inspection of all work, data, documents, proceedings, and activities related to this Agreement. Notification of audit shall be provided at least thirty (30) days before any such audit is conducted. Such records, together with supporting documents, shall be maintained for a period of ten (10) years after receipt of final payment.

Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the City and may be used, reused, or otherwise disposed of by the City without the permission of the Contractor. With respect to computer files, Contractor shall make available to the City, at the Contractor's office and upon reasonable written request by the City, the necessary computer software and hardware for purposes of accessing, compiling, transferring, and printing computer files.

13. INDEMNIFICATION AND HOLD HARMLESS

Contractor hereby assumes liability for and agrees to defend (at Indemnitees' option), indemnify, protect and hold harmless City, and its Engineers, officers, agents, and employees ("Indemnitees") from and against any and all claims, charges, damages, demands, actions, proceedings, losses, stop notices, costs, expenses (including attorneys' fees), judgments, civil fines and penalties, liabilities of any kind or nature whatsoever, which may be sustained or suffered by or secured against the Indemnitees arising out of or encountered in connection with this Agreement or the performance of the work including, but not limited to, death of or bodily injury to persons or damage to property, including property owned by or under the care and custody of City, and for civil fines and penalties, that may arise from or be caused, in whole or in part, by any negligent or other act or omission of Contractor, its officers, agents, employees or Subcontractors including but not limited to, liability arising from:

a) Any dangerous, hazardous, unsafe or defective condition of, in or on the premises, of any nature whatsoever, which may exist by reason of any act, omission, neglect, or any use or occupation of the premises by Contractor, its officers, agents, employees, or subcontractor;

b) Any operation conducted upon or any use or occupation of the premises by Contractor, its officers, agents, employees, or subcontractors under or pursuant to the provisions of this Agreement or otherwise;

c) Any act, omission or negligence of Contractor, its officers, agents, employees, or Subcontractors;

d) Any failure of Contractor, its officers, agents, or employees to comply with any of the terms or conditions of this Agreement or any applicable federal, state, regional, or municipal law, ordinance, rule or regulation; and

e) The conditions, operations, uses, occupations, acts, omissions or negligence referred to in Sub-sections a, b, c, and d, existing or conducted upon or arising from the use or occupation by Contractor on any other premises in the care, custody and control of City.

Contractor's obligations under this Section apply regardless of whether or not such claim, charge, damage, demand, action, proceeding, loss, stop notice, cost, expense, judgment, civil fine or penalty, or liability was caused in part or contributed to by an Indemnitee. However, without affecting the rights of City under any provision of this Agreement, Contractor shall not be required to indemnify and hold harmless City for liability attributable to the active negligence of City, provided such active negligence is determined by agreement between the parties or by the findings of a court of competent jurisdiction. In instances where City is shown to have been actively negligent and where City's active negligence accounts for only a percentage of the liability involved, the obligation of Contractor will be for that entire portion or percentage of liability not attributable to the active negligence of City.

Contractor agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this section from each and every subcontractor or any other person or entity involved by, for, with or on behalf of Contractor in the performance of this Agreement. In the event Contractor fails to obtain such indemnity obligations from others as required here, Contractor agrees to be fully responsible according to the terms of this section.

Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend City as set forth here is binding on the successors, assigns or heirs of Contractor and shall survive the termination of this Agreement or section.

This Indemnity shall survive termination of the Agreement or Final Payment hereunder. This Indemnity is in addition to any other rights or remedies that the Indemnities may have under the law or under any other Contract Documents or Agreements. In the event of any claim or demand made against any party which is entitled to be indemnified hereunder, City may, in its sole discretion, reserve, retain, or apply any monies to the Contractor under this Agreement for the purpose of resolving such claims; provided, however, City may release such funds if the Contractor provides City with reasonable assurance of protection of the Indemnitees' interests. City shall, in its sole discretion, determine whether such assurances are reasonable.

14. INSURANCE

Contractor shall maintain prior to the beginning of and for the duration of this Agreement insurance coverage as specified in Exhibit A attached hereto and incorporated herein by this reference as though set forth in full.

15. INDEPENDENT CONTRACTOR

Contractor is and shall at all times remain as to the City a wholly independent Contractor. The personnel performing the services under this Agreement on behalf of Contractor shall at all times be under Contractor's exclusive direction and control. Neither City nor any of its officers, employees, or agents shall have control over the conduct of Contractor or any of Contractor's officers, employees, or agents, except as set forth in this Agreement. Contractor shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of the City. Contractor shall not incur or have the power to incur any debt, obligation, or liability against City, or bind City in any manner.

No employee benefits shall be available to Contractor in connection with the performance of this Agreement. Except for the fees paid to Contractor as provided in the Agreement, City shall not pay salaries, wages, or other compensation to Contractor for performing services hereunder for City. City shall not be liable for compensation or indemnification to Contractor for injury or sickness arising out of performing services hereunder.

16. LEGAL RESPONSIBILITIES

The Contractor shall keep itself informed of State and Federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Contractor shall at all times observe and comply with all such laws and regulations. The City, and its Construction Manager, officers and employees, shall not be liable at law or in equity occasioned by failure of the Contractor to comply with this Section.

17. ANTI DISCRIMINATION

Neither the Contractor, nor any subcontractor under the Contractor, shall discriminate in employment of persons upon the work because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or gender of such person, except as provided in Section 12940 of the Government Code. The Contractor shall have responsibility for compliance with this Section [Labor Code Sec. 1735].

18. UNDUE INFLUENCE

Contractor declares and warrants that no undue influence or pressure is used against or in concert with any officer or employee of the City in connection with the award, terms or implementation of this Agreement, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of the City will receive compensation, directly or indirectly from Contractor, or any officer, employee or agent of Contractor, in connection with the award of this Agreement or any work to be conducted as a result of this Agreement. Violation of this Section shall be a material breach of this Agreement entitling the City to any and all remedies at law or in equity.

19. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

No member, officer, or employee of the City, or their designees or agents, and no public official who exercises authority over or responsibilities with respect to the Project during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any agreement or sub-agreement, or the proceeds thereof, for work to be performed in connection with the Project performed under this Agreement.

20. CONFLICT OF INTEREST

Contractor covenants that neither they nor any officer or principal of their firm have any interests, nor shall they acquire any interest, directly or indirectly, which will conflict in any manner or degree with the performance of their services hereunder. Contractor further covenants that in the performance of this Agreement, they shall employ no person having such interest as an officer, employee, agent, or subcontractor. Contractor further covenants that Contractor has not contracted with nor is performing any services directly or indirectly, with the developer(s) and/or property owner(s) and/or firm(s) and/or partnership(s) and/or public agency(ies) owning property and/or processing an entitlement application for property in the City or its Area of Interest, now or within the past one (1) year, and further covenants and agrees that Contractor and/or its subcontractors shall provide no service or enter into any contract with any developer(s) and/or property owner(s) and/or firm(s) and/or partnership(s) and/or public agency(ies) owning property and/or processing an entitlement application for property in the City or its Area of Interest, while under contract with the City and for a one-year time period following termination of this Agreement.

21. NOTICE

Any notice to be given pursuant to this Agreement shall be in writing, and all such notices and any other document to be delivered shall be delivered by personal service or by deposit in the United States mail, certified or registered, return receipt requested, with postage prepaid, and addressed to the party for whom intended as follows:

To: City Manager
City of Moorpark
799 Moorpark Avenue
Moorpark, California 93021

To: John A. Mercer
Falcon Builders, Inc.
75225 Promontory Place
Indian Wells, California 92210

Either party may, from time to time, by written notice to the other, designate a different address or contact person, which shall be substituted for the one above specified. Notices, payments and other documents shall be deemed delivered upon receipt by personal service or as of the third (3rd) day after deposit in the United States mail.

22. CHANGE IN NAME

Should a change be contemplated in the name or nature of the Contractor's legal entity, the Contractor shall first notify the City in order that proper steps may be taken to have the change reflected in the Agreement Documents.

23. ASSIGNMENT

Contractor shall not assign this Agreement or any of the rights, duties or obligations hereunder. It is understood and acknowledged by the parties that Contractor is uniquely qualified to perform the services provided for in this Agreement.

24. LICENSES

At all times during the term of this Agreement, Contractor shall have in full force and effect, all licenses required of it by law for the performance of the services in this Agreement.

25. VENUE AND GOVERNING LAW

This Agreement is made, entered into, and executed in Ventura County, California, and any action filed in any court or for arbitration for the interpretation, enforcement or other action of the terms, conditions or covenants referred to herein shall be filed in the applicable court in Ventura County, California. The City and Contractor understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement.

26. ENTIRE AGREEMENT

This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

27. CAPTIONS OR HEADINGS

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

28. 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.

29. TIME OF COMPLETION

City and Contractor agree that time is of the essence in this Agreement. City and Contractor further agree that Contractor's failure to perform on or at the times set forth in this Agreement will damage and injure City, but the extent of such damage and injury is difficult or speculative to ascertain. Consequently, City and Contractor agree that any failure to perform by Contractor at or within the times set forth herein shall result in liquidated damages as defined in Article 11 for each and every day such performance is late. City and Contractor agree that such sum is reasonable and fair. Furthermore, City and Contractor agree that this Agreement is subject to Government Code Section 53069.85 and that each party hereto is familiar with and understands the obligations of said Section of the Government Code.

30. 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 ground that the party prepared the Agreement or caused it to be prepared.

31. WAIVER

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.

32. AUTHORITY TO EXECUTE

The person or persons executing this Agreement on behalf of the Contractor warrants and represents that he/she has the authority to execute this Agreement on behalf of the Contractor and has the authority to bind Contractor to the performance of obligations hereunder.

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

CITY OF MOORPARK

FALCON BUILDERS, INC.

By: _____
Steven Kueny, City Manager

By: _____
John A. Mercer

Its: _____
President

Attest:

Maureen Benson, City Clerk

EXHIBIT A

Insurance

Prior to the beginning of and throughout the duration of the 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 the requirements set forth here, it will be amended 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 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:

1. Commercial General Liability

Commercial General Liability Insurance shall be provided by an Insurance Services Office "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 shall be no less than One million dollars (\$1,000,000) per occurrence for all covered losses and no less than Two million dollars (\$2,000,000) general aggregate.

Contractor's policy shall contain no endorsements limiting coverage beyond the basic policy coverage grant for any of the following:

- a. Explosion, collapse or underground hazard (XCU)
- b. Products and completed operations
- c. Pollution liability
- d. Contractual liability

Coverage shall be applicable to City for injury to employees of contractors, subcontractors, or others involved in the project. Policy shall be endorsed to provide a separate limit applicable to this project.

2. Workers' Compensation

Workers' Compensation insurance shall be provided on a state-approved policy form providing statutory benefits as required by law with employers' liability limits no less than \$1,000,000 per accident for all covered losses.

3. Business Auto Coverage

Business Auto Coverage on ISO Business Auto Coverage form CA 00 01 06 92 including symbol 1 (Any Auto) or the exact equivalent shall be provided. Limits shall be no less than \$1,000,000 per accident, combined single limit. 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, Contract shall provide evidence of personal auto liability coverage for each such person.

4. Excess or Umbrella Liability

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 \$25,000 self-insured retention for liability not covered by primary but covered by the umbrella. Coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. There shall be no cross liability exclusion precluding coverage for claims or suits by one insured against another. Coverage shall be applicable to City for injury to employees of contractor, subcontractors, or others involved in the Work. The scope of coverage provided is subject to the approval of 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 and aggregate.

5. Course of Construction

Course of Construction insurance shall provide "all risk" coverage for the completed value of the project. Policies shall contain the following provisions: (1) City shall be named as loss payee; and (2) the insurer shall waive all rights of recovery against City.

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

Contractor and City agree as follows:

1. Contractor agrees to endorse the third party general liability coverage required herein to include as additional insureds City, its officials, employees, agents, using standard ISO endorsement No. CG 2010 with an edition date of 1985. Contractor also agrees to require all contractors, subcontractors, and any one else involved in any way with the project contemplated by this Agreement to do likewise.

2. Any waiver of subrogation express or implied on the part of the City to any party involved in this Agreement or related documents applies only to the extent of insurance proceeds actually paid. City, having required that it be named as an additional insured to all insurance coverage required herein, expressly retains the right to subrogate against any party for sums not paid by insurance. For its part, Contractor agrees to waive subrogation rights against City regardless of the applicability of any insurance proceeds, and to require all contractors, subcontractors, or others involved in any way with the project contemplated by this Agreement to do likewise.
3. All insurance coverage maintained or procured by Contractor or required of others by Contractor pursuant to this Agreement shall be endorsed to delete the subrogation condition as to the City, or to specifically allow Contractor or others providing insurance herein to waive subrogation prior to a loss. This endorsement shall be obtained regardless of existing policy wording that may appear to allow such waivers.
4. It is agreed by Contractor and City that insurance provided pursuant to these requirements is not intended by any party to be limited to providing coverage for the vicarious liability of City, or to the supervisory role, if any, of City. All insurance coverage provided pursuant to this or any other Agreement (express or implied) in any way relating to City is intended to apply to the full extent of the policies involved. Nothing referred to here or contained in any agreement involving City in relation to the project contemplated by this Agreement is intended to be construed to limit the application of insurance coverage in any way.
5. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing.
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 discover period) that may affect City's protection without City's prior written consent.

7. Proof of compliance with these insurance requirements, consisting of binders of coverage, or endorsements, or certificates of insurance, shall be delivered to City at or prior to the execution of this Agreement. In the event such proof of insurance is not delivered as required, or in the event such insurance is canceled or reduced at any time and no replacement coverage is provided, 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 City shall be charged to and promptly paid by Contractor or deducted from sums due Contractor, at City option.
8. Contractor agrees to endorse, and to require others to endorse, the insurance provided pursuant to these requirements, to require 30 days notice to City and the appropriate tender prior to cancellation or reduction of such liability coverage and notice of any material alteration or non-renewal of any such coverage, and to require contractors, subcontractors, and any other party in any way involved with the project contemplated by this Agreement to do likewise.
9. It is acknowledged by the parties of this Agreement that all insurance coverage required to be provided by Contractor or any subcontractor, and any other party involved with the project who is brought onto or involved in the project by Contractor, 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 project who is brought onto or involved in the project by Contractor, provide the same minimum insurance coverage 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 Agreement. Contractor agrees that upon request, all agreements with subcontractors and others engaged in this project will be submitted to City for review.
11. Contractor agrees that all layers of third party liability coverage required herein, primary, umbrella and excess, will have the same starting and expiration date. Contractor agrees further that all other third party coverages required herein will likewise have concurrent starting and ending dates.

12. 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 on the project contemplated by this Agreement to self-insure its obligations to 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.
13. The City reserves the right at any time during the term of this 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 City.
14. For purposes of applying insurance coverage only, all contracts pertaining to the project will be deemed to be executed when finalized and any activity commences in furtherance of performance under this Agreement.
15. Contractor acknowledges and agrees that any actual or alleged failure on the part of City to inform Contractor of non-compliance with any insurance requirement in no way imposes any additional obligations on City nor does it waive any rights hereunder in this or any other regard.
16. Contractor will renew the required coverage annually as long as 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. The insurance shall include but not be limited to products and completed operations and discontinued operations, where applicable. Termination of this obligation is not effective until City executes a written statement to that effect.
17. Contractor agrees to waive its statutory immunity under any workers' compensation statute or similar statute, in relation to the City, and to require all subcontractors and any other person or entity involved in the project contemplated by this Agreement to do likewise.
18. Requirements of specific coverage features are not intended as limitations on other requirements or 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 all-inclusive.

19. Any provision in any of the construction documents dealing with the insurance coverage provided pursuant to these requirements, is subordinate to and superseded by the requirements contained herein. These insurance requirements are intended to be separate and distinct from any other provision in this Agreement and are intended by the parties to be interpreted as such.
20. All liability coverage provided according to these requirements must be endorsed to provide a separate aggregate limit for the project that is the subject of this Agreement and evidencing products and completed operations coverage for not less than two years after issuance of a final certificate of occupancy by all appropriate government agencies or acceptance of the completed work by City.
21. Contractor agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Contractor for the cost of additional insurance coverage required by this Agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.
22. Contractor agrees to obtain and provide to City a copy of Professional Liability coverage for Architects or Engineers on this project through Contractor. City shall determine the liability limit.

Exhibit B

BID PROPOSAL

TO BE EXECUTED
BY BIDDER AND SUBMITTED WITH BID

CITY OF MOORPARK
MOORPARK, CALIFORNIA

Construction of Security/Retaining Wall at South Metrolink Parking Lot
300 High Street
Moorpark, California

Bids to Be Received – Thursday, April 7, 2011 by 3:00 p.m.

CONTRACTOR

Name FALCON BUILDERS, INC.

Street Address 75225 Promontory Pl.

City Indian Wells State CA Zip Code 92210

Telephone Number _____

Contractor's License No 949148 Class B, Expiration Date 6/30/12

The undersigned swears under penalty of perjury that the information regarding the Contractor's License is true and correct.

Signature of Bidder [Signature] Title President

BID SCHEDULE:

It is understood that the lump sum bid includes without limitation, all appurtenant expenses, permits, taxes, royalties, and fees associated with the work described within these bid documents.

1. Security/Retaining Wall Lump Sum Base Bid (\$) 81,160 - m
Eighty-one Thousand One hundred and Sixty Two
Seventy-Six Thousand One hundred forty dollars and 100 cents

Number of calendar days for completion: 50

(NOTE: Construction of Project must be completed by June 30, 2011)

BID PROPOSAL (continued)

*TO BE EXECUTED
BY BIDDER AND SUBMITTED WITH BID*

Bid Due Date/Time: April 7, 2011 by 3:00 p.m.

UNIT PRICES

This is a lump sum contract. See next page for unit prices that will be used only for **additions** and **deletions** to the contract amount. All prices remain firm throughout completion of all work under this contract.

The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into Agreement with the City of Moorpark to perform the Work as specified or indicated in said Contract Documents entitled: *Construction of Security/Retaining Wall at Metrolink South Parking Lot.*

Bidder accepts all of the terms and conditions of the Contract Documents, including without limitations, those in the Notice Inviting Bids and Instructions to Bidders.

This Bid will remain open for the period stated in the Notice Inviting Bids. The Bidder will enter into a Contract within the time and in the manner as required in the Notice Inviting Bids and will furnish the insurance certificates, endorsements, and Bonds as required by the Contract Documents.

Bidder has examined copies of all the Contract Documents through and inclusive of the following Bid Addenda (receipt of which is hereby acknowledged):

Bid Addenda Number: _____ Date: _____

Bid Addenda Number: _____ Date: _____

Bidder has familiarized themselves with the nature and extent of the Contract Documents, the Work, the site together with the surrounding environment and locality, the legal requirements involved (including all applicable federal, state and local laws, ordinances, rules, regulations, codes, etc.) and the conditions affecting costs, progress or performance of the Work and has made such independent investigations as Bidder deems necessary.

To all the foregoing said Bidder further agrees to complete the Work required under the Contract Documents within the Contract Time stipulated within the Contract Documents, and to accept in full payment therefore the Contract Price named in the aforementioned Bid Schedule(s).

The bid must be signed in the name of the bidder and must bear the signature in longhand of the person duly authorized to sign for the Contractor.

Bidder: Falcon Builders, Inc

By: [Signature]
(Signature — Authorized Representative)

Title: President Dated: 4/6/11

NON-COLLUSION AFFIDAVIT

TO BE EXECUTED
BY BIDDER AND SUBMITTED WITH BID

STATE OF CALIFORNIA)
COUNTY OF) SS.
CITY OF

John A. Mercer being first duly sworn, deposes and says that he/she is President of Falcon Builders, Inc. the party making the foregoing bid; that the bid is not made in the interest of, or on the behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not, directly or indirectly, submitted his/her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

Name of Bidder

John A. Mercer / Falcon Builders, Inc.
Name of Bidder

Signature of Bidder

[Handwritten Signature]
Signature of Bidder

75225 Promontory Pl.
Address of Bidder

Indian Wells, CA 92210

ALL SIGNATURES MUST BE WITNESSED BY NOTARY
(attach appropriate executed form)

AFFIRMATIVE ACTION CERTIFICATION

TO BE EXECUTED
BY BIDDER AND SUBMITTED WITH BID

Bidder certifies that affirmative action has been taken to seek out and consider minority business enterprises for those portions of the work to be subcontracted, and that such affirmative actions have been fully documented, that said documentation is open to inspection, and that said affirmative action will remain in effect for the life of any contract awarded hereunder. Furthermore, bidder certifies that affirmative action will be taken to meet all equal employment opportunity requirements of the contract documents.

IN WITNESS WHEREOF, bidder executes and submits this proposal with the names, titles, hands, and seals of all forenamed principals this 6 day of April, 2011.

I declare under penalty of perjury under the laws of the State of California that the above representations are true and correct.

Executed this 6 day of April, 2011, at Indian Wells, California.

Bidder Signature: JL Ryan

Printed Name: Falcon Builders, Inc

BIDDER'S INFORMATION

Bidder certifies that the following information is true and correct:

<u>Falcon Builders, Inc</u> Name of Contractor	<u>75225 Promontory Pl.</u> Street Address	<u>Indian Wells</u> City
<u>CA</u> State	<u>92210</u> Zip Code	<u>760-797-5441</u> Phone Number
<u>760-610-5048</u> Fax Number	<u>mercer.falconbuilders@gmail.com</u> Email Address	
<u>949148 B</u> State Contractors License No. and Class	<u>6/30/12</u> Expiration Date	<u>6/23/10</u> Original Issue Date
<u>California</u> State of Incorporation		

The following are the names, titles, addresses, and phone numbers of all individuals, firm members, partners, joint ventures, and/or corporate officers having a principal interest in this proposal:

The date of any voluntary or involuntary bankruptcy judgments against any principal having an interest in this proposal are as follows:

All current and prior DBA's, alias, and/or fictitious business names for any principal having an interest in this proposal are as follows:

IN WITNESS WHEREOF, bidder executes and submits this proposal with the names, titles, hands, and seals of all forenamed principals this 6 day of April, 2011.

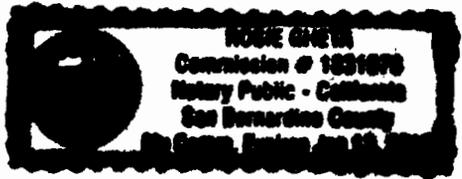
I declare under penalty of perjury under the laws of the State of California that the above representations are true and correct. Executed this 6 day of April, 2011, at Indian Wells, California.

Bidder Signature: [Handwritten Signature]

Printed Name: John Mercer

Subscribed and sworn to this 5 day of April, 2011.

STATE OF CALIFORNIA)
) ss.
COUNTY OF Riverside)



On April 5th, 2011, before me, Rosie Gheta, Notary Public [NAME OF NOTARY], a Notary Public in and for said State, appeared John A. Mercer [NAMES OF PERSON ATTESTING], personally known to me, or proved to me on the basis of satisfactory evidence to be the person(s) [is/are] subscribed to the within instrument and acknowledged to me that [he/she/they] executed the same in [his/her/their] authorized capacity[ies], and by [his/her/their] signature(s) on the instrument, the person or entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Rosie Gheta [SIGNATURES]

[PRINTED NAME OF NOTARY, NOTARY IN AND FOR SAID STATE AND COUNTY]

[SEAL]

FEDERAL TRANSIT ADMINISTRATION - EXHIBIT 1

SUSPENSION AND DEBARMENT CERTIFICATION

CERTIFICATION OF PRIMARY PARTICIPANT REGARDING DEBARMENT,
SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

TO BE EXECUTED
BY BIDDER AND SUBMITTED WITH BID

The Primary Participant (applicant for an FTA grant or cooperative agreement, or Potential Contractor for a major third party contract), certifies to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction,- violation of Federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
4. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(If the primary participant (applicant for an FTA grant, or cooperative agreement, or potential third party contractor) is unable to certify to any of the statements in this certification, the participant shall attach an explanation to this certification.)

THE PRIMARY PARTICIPANT (APPLICATION FOR AN FTA GRANT OR COOPERATIVE AGREEMENT, OR POTENTIAL CONTRACTOR FOR A MAJOR THIRD PARTY CONTRACT), Falcon Builders, Inc CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. SECTIONS 3801 ET. SEQ. ARE APPLICABLE THERETO.



Signature of Contractor's Authorized Official

4/6/11

Date

John Mercer President

Typed Name and Title of Contractor's Authorized Official

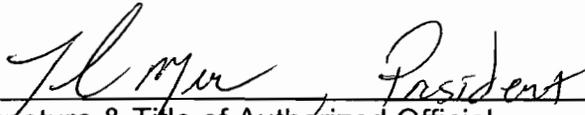
FEDERAL TRANSIT ADMINISTRATION - EXHIBIT 2

LOBBYING CERTIFICATION

TO BE EXECUTED
BY BIDDER AND SUBMITTED WITH BID

As required by U.S. DOT regulations, "New Restrictions on Lobbying," at 49 CFR 20.110, I certify to the best of my knowledge and belief that for each application for federal assistance exceeding \$100,000: (1) No Federal appropriated funds have been or will be paid, by or on behalf of Falcon Builders, Inc., to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress pertaining to the award of any Federal assistance, or the extension, continuation, renewal, amendment, or modification of any Federal assistance agreement; and (2) If any funds other than Federal appropriated funds have been or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any application to FTA for Federal assistance, I assure that Standard Form-LLL, "Disclosure Form to Report Lobbying," would be submitted and would include all information required by the form's instructions.

I understand that this certification is a material representation of fact upon which reliance is placed and that submission of this certification is a prerequisite for providing Federal assistance for a transaction covered by 31 U.S.C. 1352. I also understand that any person who fails to file a required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

, President
Signature & Title of Authorized Official

4/6/11
Date

FEDERAL TRANSIT ADMINISTRATION - EXHIBIT 3

BUY AMERICA COMPLIANCE

TO BE EXECUTED
BY BIDDER AND SUBMITTED WITH BID

Certification of Buy America Compliance for Procurement of steel, iron, or manufactured products (49 USC Section 5323(j)(1)).

The bidder hereby certifies that it will meet the requirements of 49 USC Section 5323(j)(1), Section 165(a) of the Surface Transportation Assistant Act of 1982, as amended, and the applicable regulations in 49 CFR Part 661.

Date 4/6/14
Signature [Handwritten Signature]
Company Name Falcon Builders, Inc
Title President

Certification of Buy America Non-Compliance for Procurement of steel, iron, or manufactured products (40 USC Section 5323(j)(1)).

The bidder hereby certifies that it cannot comply with the requirements of 40 USC Section 5323(j)(1), Section 165(a) of the Surface Transportation Assistant Act of 1982, as amended, but it may qualify for an exception to the requirement pursuant to Section 165(b)(2) or (b)(4) of the Surface Transportation Assistance Act of 1982, as amended, and the applicable regulations in 49 CFR Part 661.7.

Date _____
Signature _____
Company Name _____
Title _____

BID BOND

BOND NO. 20-SUR-211458
Premium Included in BBSU.

(in lieu of certified or cashier's check)

*TO BE EXECUTED
BY BIDDER AND SUBMITTED WITH BID*

KNOW ALL PERSONS BY THESE PRESENTS:

That we, Falcon Builders, Inc., as Principal, and *, as Surety, acknowledge ourselves jointly and severally bound to the City of Moorpark, the obligee, for ten (10) percent of the total bid, to be paid to said City if the Proposal shall be accepted and the Principal shall fail to execute the contract tendered by the City within the applicable time specified in the Bid Terms and Conditions, or fails to furnish either the required Faithful Performance or Labor and Material Bonds, or fails to furnish evidence of insurance as required in the Standard Specifications, then this obligation shall become due and payable, and Surety shall pay to obligee, in case suit is brought upon this bond in addition to the bond amount hereof, court costs and a reasonable attorney's fee to be fixed by the court. If the Principal executes the contract and furnishes the required bonds and evidence of insurance as provided in the contract documents, this bond shall be extinguished and released. It is hereby agreed that bid errors shall not constitute a defense to forfeiture.

* American Safety Casualty Insurance Company

WITNESS our hands this 5th day of April, 2011.

Contractor Falcon Builders, Inc.

By [Signature]

Title President

By _____

Title _____

Surety American Safety Casualty Insurance

By [Signature]

Pietro Micciche, Attorney-in-Fact

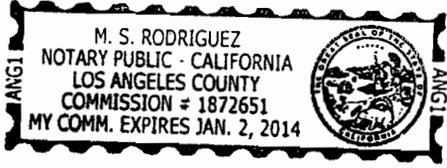
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
County of Los Angeles }

On April 5, 2011 before me, M. S. Rodriguez, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared PIETRO MICCICHE
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature M. S. Rodriguez
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____
Document Date: _____ Number of Pages: _____
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

- Signer's Name: _____
- Individual
 - Corporate Officer — Title(s): _____
 - Partner — Limited General
 - Attorney in Fact
 - Trustee
 - Guardian or Conservator
 - Other: _____



Signer Is Representing: _____

- Signer's Name: _____
- Individual
 - Corporate Officer — Title(s): _____
 - Partner — Limited General
 - Attorney in Fact
 - Trustee
 - Guardian or Conservator
 - Other: _____



Signer Is Representing: _____

STATEMENT OF BIDDER'S QUALIFICATIONS AND REFERENCES

TO BE EXECUTED
BY BIDDER AND SUBMITTED WITH BID

The bidder is required to state the bidder's financial ability and a general description of similar work performed.

Required Qualifications: Bidders must hold a valid State of California Contractor's License (A or C-29) at the time the bid is submitted to the City, and must have satisfactorily completed at least three Southern California projects in the last five years of comparable size to the scope of this project.

Number of years engaged in providing the work included within the scope of the specifications under the present business name: 1 year * N/A

* Incorporated in 2010, prior business was Falcon Builders since 1986

List and describe fully the last three contracts performed by your firm which demonstrate your ability to complete the work included within the scope of the specifications. Attach additional pages if required. The City reserves the right to contact each of the references listed for additional information regarding your firm's qualifications.

Reference No. 1

Customer Name: Riverside Transit Agency
Contact Individual: Willie T. Jones Phone No. 951-565-5331
Address: 1825 3rd St, Riverside
Contract Amount: 45,000- Year: 2010
Description of work done:
Remove and Replace 4,000 SF of Bus Parking Area

Reference No. 2

Customer Name: Barstow Transit Authority
Contact Individual: Jason Shaw Phone No. 760-255-5170
Address: Barstow
Contract Amount: 38,000 Year: 2010
Description of work done:
Install Bus shelters through out Community

Reference No. 3

Customer Name: City of Walnut
Contact Individual: Hector Kishermen Phone No. 909-595-7543
Address: 21701 La Punta, Walnut, CA
Contract Amount: \$66,120 Year: 2010
Description of work done:
Patio improvements for Senior Center (Concrete work, Landscaping, Retaining wall)

STATEMENT OF BIDDER'S QUALIFICATIONS AND REFERENCES

(Cont'd)

STATE OF CALIFORNIA, COUNTY OF Riverside

I am the President of Falcon Builders, Inc

_____, the bidder herein. I have read the foregoing statement and know the contents thereof; and I certify that the same is true to my knowledge, except as to those matters which are therein stated upon my information or belief, and as to those matters I believe it to be true.

Executed on 4/6/11 at Indran Wells, California.
(date) (place)

I declare, under penalty of perjury, that the foregoing is true and correct.



Signature of Bidder

President

Title

Signature of Bidder

Title

**COMPLIANCE WITH ENVIRONMENTAL, HEALTH
AND SAFETY STANDARDS**

*TO BE EXECUTED
BY BIDDER AND SUBMITTED WITH BID*

The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) prohibits employers from knowingly discharging or releasing a chemical known to the State of California to cause concern, birth defects or other reproductive harm into water or onto land where such chemical passes or, in all probability, will pass into any source of drinking water. Notwithstanding any provision in this Act exempting Contractor, Contractor hereby agrees to comply with all provisions of the Act relating to the discharge of hazardous chemicals on the job site.

Contractor fully agrees that Contractor, Contractor's employees and subcontractors shall not discharge such chemicals on the job site which will result in the discharge of such chemicals, and shall, upon completion of performance of all other duties under this contract, remove all supplies, materials and waste remaining on the job site which if exposed, could result in the discharge of such chemicals. Contractor shall be financially responsible for compliance with Proposition 65.

Contractor shall also comply with state of California anti-smoking laws which, in part, prohibit smoking in the workplace and enclosed areas.

Should Contractor, Contractor's employees, or subcontractors or their employees fail to comply, within 24 hours from the time City issues and Contractor receives a written notice of noncompliance or within the time of an abatement period specified by any government agency, whichever period is shorter, City may give notice of default to Contractor, and at the City's option, elect any and all rights or remedies set forth in this agreement.

Approved by Contractor: , President
Title
Date 4/6/11

WORKERS' COMPENSATION INSURANCE CERTIFICATE

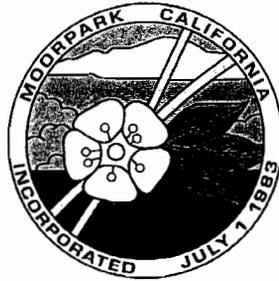
*TO BE EXECUTED
BY BIDDER AND SUBMITTED WITH BID*

Sections 1860 and 1861 of the California Labor Code require every contractor to whom a public works contract is awarded to sign and file with the awarding body the following statement:

"I am aware of the Provisions of Section 3700 of the Labor Code which requires 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 contract."

By *J. Lynn*, *John Mercer*
Title: *President* Date: *4/6/11*

Exhibit C



CITY OF MOORPARK

Project Manual

and

Specifications

**Construction of Security/Retaining Wall at
Metrolink South Parking Lot
300 High Street
Moorpark, California**

**Bid Due Date and time:
Thursday, April 7, 2011 at 3:00 p.m.**

Specification No. MPK 11-01

TABLE OF CONTENTS

BIDDING, AGREEMENT FORMS AND BONDS:

Notice Inviting Bids

****Bid Forms:**

- Bid Proposal
- Non-collusion Affidavit
- Federal Transit Administration (FTA) Forms
 - Exhibit 1 – Suspension and Debarment Certification
 - Exhibit 2 – Lobbying Certification
 - Exhibit 3 – Buy America Compliance
- Affirmative Action Certification
- Bid Bond
- Compliance with Environmental, Health & Safety Standards
- Workers' Compensation Insurance Certificate
- Bidder's Statement of Subcontractors

Agreement and Bonds

- Agreement
- Performance and Payment Bonds
- Material Suppliers and Laborers

CONDITIONS OF THE CONTRACT:

General Conditions

Special Specifications - Federal Transit Administration (FTA) Requirements

Note: Exhibits to FTA Requirements must be returned with Bid Forms as indicated above

TECHNICAL SPECIFICATIONS

**** FORMS TO BE SUBMITTED WITH BID.**

Instruction to Bidders

THE CITY OF MOORPARK IS REQUESTING BIDS FOR CONSTRUCTION OF A SECURITY/RETAINING WALL AT THE SOUTH METROLINK PARKING LOT, 300 HIGH STREET, MOORPARK, CA 93021

There will be a **mandatory pre-bid conference and site walk** held on Friday, March 25, 2011 at 9:00 a.m. at the South Metrolink Parking Lot, (accessed off of Moorpark Avenue, north of First Street), Moorpark. Potential bidders are required to attend this meeting. Failure to attend the mandatory pre-bid meeting will result in a bidder's proposal being rejected as non-responsive.

BID SUBMITTAL: Each bid must be submitted on the Bid Forms provided in the bid package. All blanks in the Bid Form must be filled in and all prices must be stated in both words and figures. It is the sole responsibility of the bidder to see that the bid is delivered to the proper place and received at the proper time. Any bid received after the scheduled closing time for receipt of bids will be returned to the bidder unopened. All bid forms must be sealed and delivered before 3:00 p.m. on April 7, 2011 to the following address (postmarks will not be accepted):

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

NOTE: Please mark the outside of the envelope:

**Sealed Bid for
Security/Retaining Wall Construction – South Metrolink Parking Lot
300 High Street, Moorpark, CA**

DO NOT OPEN WITH REGULAR MAIL

Bidders shall submit one complete set of the Bid Forms and all required attachments. No proposal received after the time specified or at any place other than the place stated above will be considered. All bids will be opened and declared publicly. The official bid clock, which will establish the official bid time, will be determined by the City Clerk's Division of the City of Moorpark. Bidders or their representatives are invited to be present at the opening of the bids.

No individual or business entity of any kind shall be allowed to make or file, or to be interested in more than one bid, except an alternative bid when specifically requested. An individual or business entity which has submitted a sub-proposal to a bidder submitting a proposal, or who has quoted prices on materials to such bidder, is not thereby disqualified from submitting a sub-proposal or from quoting prices to other bidders submitting proposals.

Instructions to Bidders (continued)

A bidder may withdraw the proposal, without prejudice prior to the time specified for the bid opening, by submitting a written request to the City for its withdrawal, in which event the proposal will be returned to the bidder unopened. Changes in or additions to the Bid Form, recapitulations of the work bid upon, alternative proposals, or any other modification or deviation of the Bid Form which is not specifically called for in the Contract Documents may result in the City's rejection of the bid as being non-responsive. Non-substantial deviations may be permitted provided that the bidder submits a full description and explanation of, and justifications for, the proposed deviations. Final determination of any proposed deviation will be made solely by the City.

BID FORMS: The bid must be accompanied by certified check, cashier's check, or bidder's bond, made payable to the City of Moorpark for an amount no less than ten percent (10%) of the total bid amount, as a guarantee that the bidder, if its bid is accepted, will promptly obtain the required bonds and insurance and will prepare the required submittal documents and execute the contract. The Bid Bonds for those bids that were not selected will be returned to the Bidders upon award of the contract by the City Council.

The bidder to whom award is made shall execute a written contract with the City within fourteen (14) calendar days after notice of the award has been sent by mail to the address given in the proposal. The contract shall be made in the form adopted by the City and incorporated in these specifications. The bidder warrants that he/she 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, City, and Special District laws, ordinances, and regulations.

If the bidder to whom the award is made fails to enter into the contract, the award will be annulled; any bid security will be forfeited; and an award may be made to the next lowest responsible bidder who shall fulfill every term and condition of the bid as if he/she were party to whom the first award was made.

BIDDER QUESTIONS: If you discover any error, omission, ambiguity, or conflict, in the plans or specifications or have any questions concerning the bidding documents or proposal forms contact the City's Project Representative:

Ky Spangler, Special Projects Consultant
City of Moorpark
799 Moorpark Avenue, Moorpark, CA 93021
(805) 517-6225 ~ kspangler.consultant@ci.moorpark.ca.us

Instructions to Bidders (continued)

Please do not call other staff members or consultants. If a prospective bidder is in doubt or has any questions as to the true meaning or intent of any part of the Bid package, or discovers discrepancies, errors, or conflicts, or omissions, he/she may submit, to the above Project Representative, a written request for an interpretation or a correction thereof. Interpretations or corrections shall be made only by addendum duly issued by the City. A copy of such addendum will be mailed, faxed, or delivered to each person receiving a set of the Contract Documents and such addendum shall be considered a part of, and incorporated in, the Contract Documents. Questions must be received in sufficient time for the City to evaluate the question(s) and respond at least 72 hours prior to the bid deadline. If the City cannot answer the question in the 72 hour time period, the bid deadline will be extended in order to allow for sufficient time for other potential bidders to respond to the change in the bid.

All timely requests for information (regarding the bid) submitted in writing will receive a written response from the City. Telephone communications with City Staff will not be permitted. Any oral communication shall not be binding on the City.

BIDS QUOTES AND UNIT PRICING: The individual project prices should be bid as lump sum prices and must be entered in figures in the spaces provided on the Bid Submission Form(s). The total bid sum shall be stated in figures. The Bid Submission Form(s) must be totally completed. Unit prices outlined are to be used only for changes to the contract.

EVALUATION OF BIDS AND AWARD: The City reserves the right to retain all bids for a period of 90 calendar days for examination and comparison, and to delete or add any alternates to/from the contract. Bidders shall guarantee the bid prices for said 90 day period to facilitate City evaluation of the bids. Each bidder shall meet all of the specifications and bid terms and conditions. By virtue of the bid submission and acceptance of the bid award, the bidder acknowledges full understanding of, and agreement with, and acceptance of all provisions of the plans, specifications and contract documents. The City reserves the right to waive non-substantial irregularities in any bid, to reject any or all proposals, to reject or delete one part of a proposal and accept the other, except to the extent that the bids are qualified by specific limitations given by the City, and to make award to the lowest responsible bidder as the interest of the City may require. Estimated Award of Contract Date: April 21, 2011

Construction of Project must be completed by June 30, 2011

In addition to the information required by the bid documents, the City may request evidence from a bidder, whose bid is under consideration for award, reasonable evidence showing that bidder's financial resources, construction experience, and organization and plant facilities are sufficient for performance of the contract.

BID PROPOSAL

TO BE EXECUTED
BY BIDDER AND SUBMITTED WITH BID

CITY OF MOORPARK
MOORPARK, CALIFORNIA

Construction of Security/Retaining Wall at South Metrolink Parking Lot
300 High Street
Moorpark, California

Bids to Be Received – Thursday, April 7, 2011 by 3:00 p.m.

CONTRACTOR

Name _____

Street Address _____

City _____ State _____ Zip Code _____

Telephone Number _____

Contractor's License No _____ Class _____, Expiration Date _____

The undersigned swears under penalty of perjury that the information regarding the Contractor's License is true and correct.

Signature of Bidder _____
Title _____

BID SCHEDULE:

It is understood that the lump sum bid includes without limitation, all appurtenant expenses, permits, taxes, royalties, and fees associated with the work described within these bid documents.

1. Security/Retaining Wall Lump Sum Base Bid (\$ _____)

_____ dollars and _____ cents

Number of calendar days for completion: _____

(NOTE: Construction of Project must be completed by June 30, 2011)

BID PROPOSAL (continued)

*TO BE EXECUTED
BY BIDDER AND SUBMITTED WITH BID*

Bid Due Date/Time: April 7, 2011 by 3:00 p.m.

UNIT PRICES

This is a lump sum contract. See next page for unit prices that will be used only for **additions** and **deletions** to the contract amount. All prices remain firm throughout completion of all work under this contract.

The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into Agreement with the City of Moorpark to perform the Work as specified or indicated in said Contract Documents entitled: *Construction of Security/Retaining Wall at Metrolink South Parking Lot.*

Bidder accepts all of the terms and conditions of the Contract Documents, including without limitations, those in the Notice Inviting Bids and Instructions to Bidders.

This Bid will remain open for the period stated in the Notice Inviting Bids. The Bidder will enter into a Contract within the time and in the manner as required in the Notice Inviting Bids and will furnish the insurance certificates, endorsements, and Bonds as required by the Contract Documents.

Bidder has examined copies of all the Contract Documents through and inclusive of the following Bid Addenda (receipt of which is hereby acknowledged):

Bid Addenda Number: _____ Date: _____
Bid Addenda Number: _____ Date: _____

Bidder has familiarized themselves with the nature and extent of the Contract Documents, the Work, the site together with the surrounding environment and locality, the legal requirements involved (including all applicable federal, state and local laws, ordinances, rules, regulations, codes, etc.) and the conditions affecting costs, progress or performance of the Work and has made such independent investigations as Bidder deems necessary.

To all the foregoing said Bidder further agrees to complete the Work required under the Contract Documents within the Contract Time stipulated within the Contract Documents, and to accept in full payment therefore the Contract Price named in the aforementioned Bid Schedule(s).

The bid must be signed in the name of the bidder and must bear the signature in longhand of the person duly authorized to sign for the Contractor.

Bidder: _____

By: _____
(Signature — Authorized Representative)

Title: _____ Dated: _____

NON-COLLUSION AFFIDAVIT

*TO BE EXECUTED
BY BIDDER AND SUBMITTED WITH BID*

STATE OF CALIFORNIA)
COUNTY OF) SS.
CITY OF

_____being first duly sworn, deposes and says that he/she is
_____ of _____ the party making the foregoing bid; that the
bid is not made in the interest of, or on the behalf of, any undisclosed person, partnership,
company, association, organization, or corporation; that the bid is genuine and not collusive or
sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in
a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed
with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding;
that the bidder has not in any manner, directly or indirectly, sought by agreement,
communication, or conference with anyone to fix the bid price of the bidder or any other bidder,
or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to
secure any advantage against the public body awarding the contract of anyone interested in the
proposed contract; that all statements contained in the bid are true; and, further, that the bidder
has not, directly or indirectly, submitted his/her bid price or any breakdown thereof, or the
contents thereof, or divulged information or data relative thereto, or paid, and will not pay fee to
any corporation, partnership, company association, organization, bid depository, or to any
member or agent thereof to effectuate a collusive or sham bid.

Name of Bidder

Name of Bidder

Signature of Bidder

Signature of Bidder

Address of Bidder

ALL SIGNATURES MUST BE WITNESSED BY NOTARY
(attach appropriate executed form)

AFFIRMATIVE ACTION CERTIFICATION

*TO BE EXECUTED
BY BIDDER AND SUBMITTED WITH BID*

Bidder certifies that affirmative action has been taken to seek out and consider minority business enterprises for those portions of the work to be subcontracted, and that such affirmative actions have been fully documented, that said documentation is open to inspection, and that said affirmative action will remain in effect for the life of any contract awarded hereunder. Furthermore, bidder certifies that affirmative action will be taken to meet all equal employment opportunity requirements of the contract documents.

IN WITNESS WHEREOF, bidder executes and submits this proposal with the names, titles, hands, and seals of all forenamed principals this _____ day of _____, 2011.

I declare under penalty of perjury under the laws of the State of California that the above representations are true and correct.

Executed this ____ day of _____, 2011, at _____, California.

Bidder Signature: _____

Printed Name: _____

BIDDER'S INFORMATION

Bidder certifies that the following information is true and correct:

Name of Contractor Street Address City

State Zip Code Phone Number

Fax Number Email Address

State Contractors License No. and Class Expiration Date Original Issue Date

State of Incorporation

FEDERAL TRANSIT ADMINISTRATION - EXHIBIT 1

SUSPENSION AND DEBARMENT CERTIFICATION

CERTIFICATION OF PRIMARY PARTICIPANT REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID

The Primary Participant (applicant for an FTA grant or cooperative agreement, or Potential Contractor for a major third party contract), certifies to the best of its knowledge and belief, that it and its principals:

- 1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction,- violation of Federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
4. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(If the primary participant (applicant for an FTA grant, or cooperative agreement, or potential third party contractor) is unable to certify to any of the statements in this certification, the participant shall attach an explanation to this certification.)

THE PRIMARY PARTICIPANT (APPLICATION FOR AN FTA GRANT OR COOPERATIVE AGREEMENT, OR POTENTIAL CONTRACTOR FOR A MAJOR THIRD PARTY CONTRACT), CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. SECTIONS 3801 ET. SEQ. ARE APPLICABLE THERETO.

Signature of Contractor's Authorized Official

Date

Typed Name and Title of Contractor's Authorized Official

FEDERAL TRANSIT ADMINISTRATION - EXHIBIT 2

LOBBYING CERTIFICATION

*TO BE EXECUTED
BY BIDDER AND SUBMITTED WITH BID*

As required by U.S. DOT regulations, "New Restrictions on Lobbying," at 49 CFR 20.110, I certify to the best of my knowledge and belief that for each application for federal assistance exceeding \$100,000: (1) No Federal appropriated funds have been or will be paid, by or on behalf of _____, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress pertaining to the award of any Federal assistance, or the extension, continuation, renewal, amendment, or modification of any Federal assistance agreement; and (2) If any funds other than Federal appropriated funds have been or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any application to FTA for Federal assistance, I assure that Standard Form-LLL, "Disclosure Form to Report Lobbying," would be submitted and would include all information required by the form's instructions.

I understand that this certification is a material representation of fact upon which reliance is placed and that submission of this certification is a prerequisite for providing Federal assistance for a transaction covered by 31 U.S.C. 1352. I also understand that any person who fails to file a required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

Signature & Title of Authorized Official

Date

FEDERAL TRANSIT ADMINISTRATION - EXHIBIT 3

BUY AMERICA COMPLIANCE

*TO BE EXECUTED
BY BIDDER AND SUBMITTED WITH BID*

Certification of Buy America Compliance for Procurement of steel, iron, or manufactured products (49 USC Section 5323(j)(1)).

The bidder hereby certifies that it will meet the requirements of 49 USC Section 5323(j)(1), Section 165(a) of the Surface Transportation Assistant Act of 1982, as amended, and the applicable regulations in 49 CFR Part 661.

Date _____

Signature _____

Company Name _____

Title _____

Certification of Buy America Non-Compliance for Procurement of steel, iron, or manufactured products (40 USC Section 5323(j)(1)).

The bidder hereby certifies that it cannot comply with the requirements of 40 USC Section 5323(j)(1), Section 165(a) of the Surface Transportation Assistant Act of 1982, as amended, but it may qualify for an exception to the requirement pursuant to Section 165(b)(2) or (b)(4) of the Surface Transportation Assistance Act of 1982, as amended, and the applicable regulations in 49 CFR Part 661.7.

Date _____

Signature _____

Company Name _____

Title _____

BID BOND

(in lieu of certified or cashier's check)

*TO BE EXECUTED
BY BIDDER AND SUBMITTED WITH BID*

KNOW ALL PERSONS BY THESE PRESENTS:

That we, _____, as Principal, and _____, as Surety, acknowledge ourselves jointly and severally bound to the City of Moorpark, the obligee, for ten (10) percent of the total bid, to be paid to said City if the Proposal shall be accepted and the Principal shall fail to execute the contract tendered by the City within the applicable time specified in the Bid Terms and Conditions, or fails to furnish either the required Faithful Performance or Labor and Material Bonds, or fails to furnish evidence of insurance as required in the Standard Specifications, then this obligation shall become due and payable, and Surety shall pay to obligee, in case suit is brought upon this bond in addition to the bond amount hereof, court costs and a reasonable attorney's fee to be fixed by the court. If the Principal executes the contract and furnishes the required bonds and evidence of insurance as provided in the contract documents, this bond shall be extinguished and released. It is hereby agreed that bid errors shall not constitute a defense to forfeiture.

WITNESS our hands this ____ day of _____, 20__.

Contractor _____

By _____

Title _____

By _____

Title _____

Surety _____

By _____

FORM TO ACCOMPANY BID BOND

*TO BE EXECUTED
BY BIDDER AND SUBMITTED WITH BID*

STATE OF CALIFORNIA)
COUNTY OF) SS.
CITY OF)

On this _____ day _____ of _____, 20____
before me, _____, a Notary Public in and for said County
and State, residing therein, duly commissioned and sworn, personally appeared
_____ of _____ and proved to
me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed
the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s)
on the instrument the person(s), or the entity upon behalf of which the person(s) acted ,
executed the instrument, and the said _____ duly acknowledge to
me that he/she/they subscribed the name of _____
_____ thereto as surety and his/her own as _____.

I certify under PENALTY OF PERJURY under the laws of the State of California
that the foregoing paragraph is true and correct.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official
seal the day and year in the certificate first above written.

Notary Public in and for said
County and State aforesaid

If certified or cashier's check is submitted herewith, state number _____
and amount \$ _____.

STATEMENT OF BIDDER'S QUALIFICATIONS AND REFERENCES

TO BE EXECUTED
BY BIDDER AND SUBMITTED WITH BID

The bidder is required to state the bidder's financial ability and a general description of similar work performed.

Required Qualifications: Bidders must hold a valid State of California Contractor's License (A or C-29) at the time the bid is submitted to the City, and must have satisfactorily completed at least three Southern California projects in the last five years of comparable size to the scope of this project.

Number of years engaged in providing the work included within the scope of the specifications under the present business name: _____.

List and describe fully the last three contracts performed by your firm which demonstrate your ability to complete the work included within the scope of the specifications. Attach additional pages if required. The City reserves the right to contact each of the references listed for additional information regarding your firm's qualifications.

Reference No. 1

Customer Name: _____
Contact Individual: _____ Phone No. _____
Address: _____
Contract Amount: _____ Year: _____
Description of work done: _____

Reference No. 2

Customer Name: _____
Contact Individual: _____ Phone No. _____
Address: _____
Contract Amount: _____ Year: _____
Description of work done: _____

Reference No. 3

Customer Name: _____
Contact Individual: _____ Phone No. _____
Address: _____
Contract Amount: _____ Year: _____
Description of work done: _____

STATEMENT OF BIDDER'S QUALIFICATIONS AND REFERENCES

(Cont'd)

STATE OF CALIFORNIA, COUNTY OF _____

I am the _____
_____ Of _____
_____, the bidder herein. I have read the foregoing statement and know the contents thereof; and I certify that the same is true to my knowledge, except as to those matters which are therein stated upon my information or belief, and as to those matters I believe it to be true.

Executed on _____ at _____, California.
(date) (place)

I declare, under penalty of perjury, that the foregoing is true and correct.

Signature of Bidder

Title

Signature of Bidder

Title

**COMPLIANCE WITH ENVIRONMENTAL, HEALTH
AND SAFETY STANDARDS**

*TO BE EXECUTED
BY BIDDER AND SUBMITTED WITH BID*

The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) prohibits employers from knowingly discharging or releasing a chemical known to the State of California to cause concern, birth defects or other reproductive harm into water or onto land where such chemical passes or, in all probability, will pass into any source of drinking water. Notwithstanding any provision in this Act exempting Contractor, Contractor hereby agrees to comply with all provisions of the Act relating to the discharge of hazardous chemicals on the job site.

Contractor fully agrees that Contractor, Contractor's employees and subcontractors shall not discharge such chemicals on the job site which will result in the discharge of such chemicals, and shall, upon completion of performance of all other duties under this contract, remove all supplies, materials and waste remaining on the job site which if exposed, could result in the discharge of such chemicals. Contractor shall be financially responsible for compliance with Proposition 65.

Contractor shall also comply with state of California anti-smoking laws which, in part, prohibit smoking in the workplace and enclosed areas.

Should Contractor, Contractor's employees, or subcontractors or their employees fail to comply, within 24 hours from the time City issues and Contractor receives a written notice of noncompliance or within the time of an abatement period specified by any government agency, whichever period is shorter, City may give notice of default to Contractor, and at the City's option, elect any and all rights or remedies set forth in this agreement.

Approved by Contractor: _____
Title

Date _____

WORKERS' COMPENSATION INSURANCE CERTIFICATE

*TO BE EXECUTED
BY BIDDER AND SUBMITTED WITH BID*

Sections 1860 and 1861 of the California Labor Code require every contractor to whom a public works contract is awarded to sign and file with the awarding body the following statement:

"I am aware of the Provisions of Section 3700 of the Labor Code which requires 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 contract."

By _____

Title: _____

Date: _____

**AGREEMENT BETWEEN THE CITY OF MOORPARK
AND _____, FOR CONSTRUCTION OF
SECURITY/RETAINING WALL AT 300 HIGH STREET, MOORPARK, CA**

THIS AGREEMENT, is made and effective as of this _____ day of _____, 2011, between the City of Moorpark, a municipal Corporation ("City") and _____, [*a sole proprietorship, partnership, limited liability partnership, corporation, limited liability corporation*] ("Contractor"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

WHEREAS, City has the need for construction services to construct a security/retaining wall at 300 High Street, Moorpark, CA (also known as the Metrolink South Parking Lot); and

WHEREAS, Contractor specializes in providing such services and has the proper work experience, certifications and background to carry out the duties involved; and

WHEREAS, the City Council of the City of Moorpark at a meeting held on the _____ day of _____, 2011, authorized the City Manager to enter into this Agreement after public bidding in accordance with California Public Contract Code Section 20160, et seq.

NOW, THEREFORE, in consideration of the mutual covenants, benefits and premises herein stated, the parties hereto agree as follows:

1. TERM

The term of the Agreement shall be from the date of execution to completion of the work identified in the Scope of Services and in conformance with Exhibit B, unless this Agreement is terminated or suspended as referred to herein.

2. SCOPE OF SERVICES

City does hereby retain Contractor in a contractual capacity to provide construction services as set forth in Exhibit B - Contractor's Bid Proposal, dated _____, which exhibit is attached hereto and incorporated herein by this reference as though set forth in full and hereinafter referred to as the "Proposal." Where said Proposal is modified by this Agreement, or in the event there is a conflict between the provisions of said Proposal and this Agreement, the language contained in this Agreement shall take precedence.

Contractor shall perform the tasks described and set forth in Exhibit B attached hereto and incorporated herein by this reference as though set forth in full. Contractor shall complete the tasks according to the requirements of the bid manual which is set

forth in Exhibit C.

Compensation for the services to be performed by Contractor shall be in accordance with Exhibit B and C, attached hereto and incorporated herein by this reference as though set forth in full. Compensation shall not exceed the rates or total contract value as stated in Exhibit B, without the written authorization of the City Manager of the City of Moorpark. Payment by City to Contractor shall be as referred to herein.

3. INCORPORATION BY REFERENCE

Notice Inviting Bids, Instructions to Bidders, Public Contract Code Section 22300, General Conditions, Special Specifications (Federal Transportation Administration [FTA] Requirements), Technical Specifications, and addenda (date), Bidder's Proposal, Plans, Standard Specifications for Public Works Construction ("Greenbook"), Drawings, Project Bid Manual and Specifications, Required Bonds and Forms, Permits, Exhibits A, B, and C, and all applicable codes and regulations are hereby incorporated in and made part of this Agreement. The provisions of the Greenbook shall apply to this Project except as may be modified by other provisions of the Agreement.

4. PRECEDENCE

If there is a conflict between or in the Agreement documents, the precedence shall be as outlined in Section 2-5.2 of the latest Greenbook.

5. PERFORMANCE

Contractor shall at all times faithfully, competently and to the best of his/her ability, experience, and talent, perform all tasks described herein. Contractor shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing similar services as are required of Contractor hereunder in meeting its obligations under this Agreement.

6. CITY MANAGEMENT

The individual directly responsible for Contractor's overall performance of the Agreement provisions herein above set forth and to serve as principal liaison between City and Contractor shall be _____, and no other individual may be substituted without the prior written approval of the City Manager.

The City's contact person in charge of administration of this Agreement, and to serve as principal liaison between Contractor and City, shall be the City Manager or designee.

7. PAYMENT

The City agrees to pay Contractor monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B, attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. This amount shall not exceed _____ (\$_____.00) plus ten percent (10%) contingency of _____ (\$_____.00) for the total term of the Agreement unless additional payment is approved as provided in this Agreement.

Contractor shall not be compensated for any services rendered in connection with its performance of this Agreement, which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager. Contractor shall be compensated for any additional services in the amounts and in the manner as agreed to by City Manager and Contractor at the time City's written authorization is given to Contractor for the performance of said services. The City Manager is authorized by the City Council to approve additional work not to exceed the ten percent (10%) contingency amount stated above.

Contractor will submit invoices monthly for actual services performed. Invoices shall be submitted on or about the first business day of each month, or as soon thereafter as practical, for services provided in the previous month. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If the City disputes any of Contractor's fees it shall give written notice to Contractor within (30) days of receipt of any disputed fees set forth on the invoice.

8. APPRENTICESHIP

Contractor must comply with all provisions of Labor Code Section 1777.5.

9. TERMINATION OR SUSPENSION WITHOUT CAUSE

The Contractor's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Contractor is in default for cause under the terms of this Agreement, City shall have no obligation or duty to continue compensating Contractor for any work performed after the date of default and can terminate this Agreement immediately by written notice to the Contractor. If such failure by the Contractor to make progress in the performance of work hereunder arises out of causes beyond the Contractor's control, and without fault or negligence of the Contractor, it shall not be considered a default.

10. DEFAULT OF CONTRACTOR

If the City Manager or his/her delegate determines that the Contractor is in default in the performance of any of the terms or conditions of this Agreement, he/she shall cause to be served upon the Contractor a written notice of the default. The Contractor shall have five (5) working days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that the

Contractor fails to cure its default within such period of time, the City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

11. LIQUIDATED DAMAGES

If the Contractor fails to complete the work, or any portion thereof, within the time period required by this Agreement or as duly extended in writing by the City Manager, he/she shall forfeit and pay to the City of Moorpark, as liquidated damages, the sum of one thousand dollars (\$1,000) per day for each calendar day the work, or portion thereof, remains uncompleted after the above specified completion date. Liquidated damages shall be deducted from any payments due or to become due to the Contractor under the terms of this Agreement. [Govt C. Sec. 53069.85] Progress payments made by the City after the above specified completion date shall not constitute a waiver of liquidated damages by the City.

12. OWNERSHIP OF DOCUMENTS

Contractor shall maintain complete and accurate records with respect to sales, costs, expenses, receipts, and other such information required by City that relate to the performance of services under this Agreement. Contractor shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Contractor shall provide free access to the representatives of City or its designees at reasonable times to such books and records; shall give the City the right to examine and audit said books and records; shall permit City to make transcripts therefrom as necessary; and shall allow inspection of all work, data, documents, proceedings, and activities related to this Agreement. Notification of audit shall be provided at least thirty (30) days before any such audit is conducted. Such records, together with supporting documents, shall be maintained for a period of ten (10) years after receipt of final payment.

Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the City and may be used, reused, or otherwise disposed of by the City without the permission of the Contractor. With respect to computer files, Contractor shall make available to the City, at the Contractor's office and upon reasonable written request by the City, the necessary computer software and hardware for purposes of accessing, compiling, transferring, and printing computer files.

13. INDEMNIFICATION AND HOLD HARMLESS

Contractor hereby assumes liability for and agrees to defend (at Indemnitees'

option), indemnify, protect and hold harmless City, and its Engineers, officers, agents, and employees ("Indemnitees") from and against any and all claims, charges, damages, demands, actions, proceedings, losses, stop notices, costs, expenses (including attorneys' fees), judgments, civil fines and penalties, liabilities of any kind or nature whatsoever, which may be sustained or suffered by or secured against the Indemnitees arising out of or encountered in connection with this Agreement or the performance of the work including, but not limited to, death of or bodily injury to persons or damage to property, including property owned by or under the care and custody of City, and for civil fines and penalties, that may arise from or be caused, in whole or in part, by any negligent or other act or omission of Contractor, its officers, agents, employees or Subcontractors including but not limited to, liability arising from:

a) Any dangerous, hazardous, unsafe or defective condition of, in or on the premises, of any nature whatsoever, which may exist by reason of any act, omission, neglect, or any use or occupation of the premises by Contractor, its officers, agents, employees, or subcontractor;

b) Any operation conducted upon or any use or occupation of the premises by Contractor, its officers, agents, employees, or subcontractors under or pursuant to the provisions of this Agreement or otherwise;

c) Any act, omission or negligence of Contractor, its officers, agents, employees, or Subcontractors;

d) Any failure of Contractor, its officers, agents, or employees to comply with any of the terms or conditions of this Agreement or any applicable federal, state, regional, or municipal law, ordinance, rule or regulation; and

e) The conditions, operations, uses, occupations, acts, omissions or negligence referred to in Sub-sections a, b, c, and d, existing or conducted upon or arising from the use or occupation by Contractor on any other premises in the care, custody and control of City.

Contractor's obligations under this Section apply regardless of whether or not such claim, charge, damage, demand, action, proceeding, loss, stop notice, cost, expense, judgment, civil fine or penalty, or liability was caused in part or contributed to by an Indemnatee. However, without affecting the rights of City under any provision of this Agreement, Contractor shall not be required to indemnify and hold harmless City for liability attributable to the active negligence of City, provided such active negligence is determined by agreement between the parties or by the findings of a court of competent jurisdiction. In instances where City is shown to have been actively negligent and where City's active negligence accounts for only a percentage of the liability involved, the obligation of Contractor will be for that entire portion or percentage of liability not attributable to the active negligence of City.

Contractor agrees to obtain executed indemnity agreements with provisions

identical to those set forth here in this section from each and every subcontractor or any other person or entity involved by, for, with or on behalf of Contractor in the performance of this Agreement. In the event Contractor fails to obtain such indemnity obligations from others as required here, Contractor agrees to be fully responsible according to the terms of this section.

Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend City as set forth here is binding on the successors, assigns or heirs of Contractor and shall survive the termination of this Agreement or section.

This Indemnity shall survive termination of the Agreement or Final Payment hereunder. This Indemnity is in addition to any other rights or remedies that the Indemnities may have under the law or under any other Contract Documents or Agreements. In the event of any claim or demand made against any party which is entitled to be indemnified hereunder, City may, in its sole discretion, reserve, retain, or apply any monies to the Contractor under this Agreement for the purpose of resolving such claims; provided, however, City may release such funds if the Contractor provides City with reasonable assurance of protection of the Indemnitees' interests. City shall, in its sole discretion, determine whether such assurances are reasonable.

14. INSURANCE

Contractor shall maintain prior to the beginning of and for the duration of this Agreement insurance coverage as specified in Exhibit A attached hereto and incorporated herein by this reference as though set forth in full.

15. INDEPENDENT CONTRACTOR

Contractor is and shall at all times remain as to the City a wholly independent Contractor. The personnel performing the services under this Agreement on behalf of Contractor shall at all times be under Contractor's exclusive direction and control. Neither City nor any of its officers, employees, or agents shall have control over the conduct of Contractor or any of Contractor's officers, employees, or agents, except as set forth in this Agreement. Contractor shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of the City. Contractor shall not incur or have the power to incur any debt, obligation, or liability against City, or bind City in any manner.

No employee benefits shall be available to Contractor in connection with the performance of this Agreement. Except for the fees paid to Contractor as provided in the Agreement, City shall not pay salaries, wages, or other compensation to Contractor for performing services hereunder for City. City shall not be liable for compensation or indemnification to Contractor for injury or sickness arising out of performing services hereunder.

16. LEGAL RESPONSIBILITIES

The Contractor shall keep itself informed of State and Federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Contractor shall at all times observe and comply with all such laws and regulations. The City, and its Construction Manager, officers and employees, shall not be liable at law or in equity occasioned by failure of the Contractor to comply with this Section.

17. ANTI DISCRIMINATION

Neither the Contractor, nor any subcontractor under the Contractor, shall discriminate in employment of persons upon the work because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or gender of such person, except as provided in Section 12940 of the Government Code. The Contractor shall have responsibility for compliance with this Section. [Labor Code Sec. 1735]

18. UNDUE INFLUENCE

Contractor declares and warrants that no undue influence or pressure is used against or in concert with any officer or employee of the City in connection with the award, terms or implementation of this Agreement, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of the City will receive compensation, directly or indirectly from Contractor, or any officer, employee or agent of Contractor, in connection with the award of this Agreement or any work to be conducted as a result of this Agreement. Violation of this Section shall be a material breach of this Agreement entitling the City to any and all remedies at law or in equity.

19. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

No member, officer, or employee of the City, or their designees or agents, and no public official who exercises authority over or responsibilities with respect to the Project during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any agreement or sub-agreement, or the proceeds thereof, for work to be performed in connection with the Project performed under this Agreement.

20. CONFLICT OF INTEREST

Contractor covenants that neither they nor any officer or principal of their firm have any interests, nor shall they acquire any interest, directly or indirectly, which will conflict in any manner or degree with the performance of their services hereunder. Contractor further covenants that in the performance of this Agreement, they shall

employ no person having such interest as an officer, employee, agent, or subcontractor. Contractor further covenants that Contractor has not contracted with nor is performing any services directly or indirectly, with the developer(s) and/or property owner(s) and/or firm(s) and/or partnership(s) and/or public agency(ies) owning property and/or processing an entitlement application for property in the City or its Area of Interest, now or within the past one (1) year, and further covenants and agrees that Contractor and/or its subcontractors shall provide no service or enter into any contract with any developer(s) and/or property owner(s) and/or firm(s) and/or partnership(s) and/or public agency(ies) owning property and/or processing an entitlement application for property in the City or its Area of Interest, while under contract with the City of Moorpark and for a one-year time period following termination of this Agreement.

21. NOTICE

Any notice to be given pursuant to this Agreement shall be in writing, and all such notices and any other document to be delivered shall be delivered by personal service or by deposit in the United States mail, certified or registered, return receipt requested, with postage prepaid, and addressed to the party for whom intended as follows:

To: City Manager
City of Moorpark
799 Moorpark Avenue
Moorpark, California 93021

To: **Contractor Information**

Either party may, from time to time, by written notice to the other, designate a different address or contact person, which shall be substituted for the one above specified. Notices, payments and other documents shall be deemed delivered upon receipt by personal service or as of the third (3rd) day after deposit in the United States mail.

22. CHANGE IN NAME

Should a change be contemplated in the name or nature of the Contractor's legal entity, the Contractor shall first notify the City in order that proper steps may be taken to have the change reflected in the Agreement Documents.

23. ASSIGNMENT

Contractor shall not assign this Agreement or any of the rights, duties or obligations hereunder. It is understood and acknowledged by the parties that Contractor is uniquely qualified to perform the services provided for in this Agreement.

24. LICENSES

At all times during the term of this Agreement, Contractor shall have in full force and effect, all licenses required of it by law for the performance of the services in this Agreement.

25. VENUE AND GOVERNING LAW

This Agreement is made, entered into, and executed in Ventura County, California, and any action filed in any court or for arbitration for the interpretation, enforcement or other action of the terms, conditions or covenants referred to herein shall be filed in the applicable court in Ventura County, California. The City and Contractor understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement.

26. ENTIRE AGREEMENT

This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

27. CAPTIONS OR HEADINGS

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

28. 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.

29. TIME OF COMPLETION

City and Contractor agree that time is of the essence in this Agreement. City and Contractor further agree that Contractor's failure to perform on or at the times set forth in this Agreement will damage and injure City, but the extent of such damage and injury is difficult or speculative to ascertain. Consequently, City and Contractor agree that any failure to perform by Contractor at or within the times set forth herein shall result in liquidated damages as defined in Article 10 for each and every day such performance is

late. City and Contractor agree that such sum is reasonable and fair. Furthermore, City and Contractor agree that this Agreement is subject to Government Code Section 53069.85 and that each party hereto is familiar with and understands the obligations of said Section of the Government Code.

30. 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 ground that the party prepared the Agreement or caused it to be prepared.

31. WAIVER

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.

32. AUTHORITY TO EXECUTE

The person or persons executing this Agreement on behalf of the Contractor warrants and represents that he/she has the authority to execute this Agreement on behalf of the Contractor and has the authority to bind Contractor to the performance of obligations hereunder.

[Signatures to follow on next page]

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

CITY OF MOORPARK

NAME OF CONTRACTOR HERE

By: _____
Steven Kueny, City Manager

By: _____
Authorized Signatory

Its: _____
Title

Attest:

Maureen Benson, City Clerk

EXHIBIT A

Insurance

Prior to the beginning of and throughout the duration of the 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 the requirements set forth here, it will be amended 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 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:

1. Commercial General Liability

Commercial General Liability Insurance shall be provided by an Insurance Services Office "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 shall be no less than One million dollars (\$1,000,000) per occurrence for all covered losses and no less than Two million dollars (\$2,000,000) general aggregate.

Contractor's policy shall contain no endorsements limiting coverage beyond the basic policy coverage grant for any of the following:

- a. Explosion, collapse or underground hazard (XCU)
- b. Products and completed operations
- c. Pollution liability
- d. Contractual liability

Coverage shall be applicable to City for injury to employees of contractors, subcontractors, or others involved in the project. Policy shall be endorsed to provide a separate limit applicable to this project.

2. Workers' Compensation

Workers' Compensation insurance shall be provided on a state-approved policy form providing statutory benefits as required by law with employers' liability limits no less than \$1,000,000 per accident for all covered losses.

3. Business Auto Coverage

Business Auto Coverage on ISO Business Auto Coverage form CA 00 01 06 92 including symbol 1 (Any Auto) or the exact equivalent shall be provided. Limits shall be no less than \$1,000,000 per accident, combined single limit. 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 coverage for each such person.

4. Excess or Umbrella Liability

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 \$25,000 self-insured retention for liability not covered by primary but covered by the umbrella. Coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. There shall be no cross liability exclusion precluding coverage for claims or suits by one insured against another. Coverage shall be applicable to City for injury to employees of contractor, subcontractors, or others involved in the Work. The scope of coverage provided is subject to the approval of 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 and aggregate.

5. Course of Construction

Course of Construction insurance shall provide "all risk" coverage for the completed value of the project. Policies shall contain the following provisions: (1) City shall be named as loss payee; and (2) the insurer shall waive all rights of recovery against City.

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

Contractor and City agree as follows:

1. Contractor agrees to endorse the third party general liability coverage required herein to include as additional insureds City, its officials, employees, agents, using standard ISO endorsement No. CG 2010 with an edition date of 1985. Contractor also agrees to require all contractors, subcontractors, and any one else involved in any way with the project contemplated by this Agreement to do likewise.

2. Any waiver of subrogation express or implied on the part of the City to any party involved in this Agreement or related documents applies only to the extent of insurance proceeds actually paid. City, having required that it be named as an additional insured to all insurance coverage required herein, expressly retains the right to subrogate against any party for sums not paid by insurance. For its part, Contractor agrees to waive subrogation rights against City regardless of the applicability of any insurance proceeds, and to require all contractors, subcontractors, or others involved in any way with the project contemplated by this Agreement to do likewise.
3. All insurance coverage maintained or procured by Contractor or required of others by Contractor pursuant to this Agreement shall be endorsed to delete the subrogation condition as to the City, or to specifically allow Contractor or others providing insurance herein to waive subrogation prior to a loss. This endorsement shall be obtained regardless of existing policy wording that may appear to allow such waivers.
4. It is agreed by Contractor and City that insurance provided pursuant to these requirements is not intended by any party to be limited to providing coverage for the vicarious liability of City, or to the supervisory role, if any, of City. All insurance coverage provided pursuant to this or any other Agreement (express or implied) in any way relating to City is intended to apply to the full extent of the policies involved. Nothing referred to here or contained in any agreement involving City in relation to the project contemplated by this Agreement is intended to be construed to limit the application of insurance coverage in any way.
5. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing.
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 discover period) that may affect City's protection without City's prior written consent.
7. Proof of compliance with these insurance requirements, consisting of binders of coverage, or endorsements, or certificates of insurance, shall be delivered to City at or prior to the execution of this Agreement. In the event such proof of insurance is not delivered as required, or in the event such insurance is canceled or reduced at any time and no replacement coverage is provided, 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 City shall be charged to and promptly paid by Contractor or deducted from sums due Contractor, at City option.

8. Contractor agrees to endorse, and to required others to endorse, the insurance provided pursuant to these requirements, to require 30 days notice to City and the appropriate tender prior to cancellation or reduction of such liability coverage and notice of any material alteration or non-renewal of any such coverage, and to require contractors, subcontractors, and any other party in any way involved with the project contemplated by this Agreement to do likewise.
9. It is acknowledged by the parties of this Agreement that all insurance coverage required to be provided by Contractor or any subcontractor, and any other party involved with the project who is brought onto or involved in the project by Contractor, 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 project who is brought onto or involved in the project by Contractor, provide the same minimum insurance coverage 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 Agreement. Contractor agrees that upon request, all agreements with subcontractors and others engaged in this project will be submitted to City for review.
11. Contractor agrees that all layers of third party liability coverage required herein, primary, umbrella and excess, will have the same starting and expiration date. Contractor agrees further that all other third party coverages required herein will likewise have concurrent starting and ending dates.
12. 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 on the project contemplated by this Agreement to self-insure its obligations to 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.
13. The City reserves the right at any time during the term of this 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 City.

14. For purposes of applying insurance coverage only, all contracts pertaining to the project will be deemed to be executed when finalized and any activity commences in furtherance of performance under this Agreement.
15. Contractor acknowledges and agrees that any actual or alleged failure on the part of City to inform Contractor of non-compliance with any insurance requirement in no way imposes any additional obligations on City nor does it waive any rights hereunder in this or any other regard.
16. Contractor will renew the required coverage annually as long as 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. The insurance shall include but not be limited to products and completed operations and discontinued operations, where applicable. Termination of this obligation is not effective until City executes a written statement to that effect.
17. Contractor agrees to waive its statutory immunity under any workers' compensation statute or similar statute, in relation to the City, and to require all subcontractors and any other person or entity involved in the project contemplated by this Agreement to do likewise.
18. Requirements of specific coverage features are not intended as limitations on other requirements or 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 all-inclusive.
19. Any provision in any of the construction documents dealing with the insurance coverage provided pursuant to these requirements, is subordinate to and superseded by the requirements contained herein. These insurance requirements are intended to be separate and distinct from any other provision in this Agreement and are intended by the parties to be interpreted as such.
20. All liability coverage provided according to these requirements must be endorsed to provide a separate aggregate limit for the project that is the subject of this Agreement and evidencing products and completed operations coverage for not less than two years after issuance of a final certificate of occupancy by all appropriate government agencies or acceptance of the completed work by City.
21. Contractor agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to change City or Contractor for the cost of additional insurance coverage required by this Agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with

these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.

22. Contractor agrees to obtain and provide to City a copy of Professional Liability coverage for Architects or Engineers on this project through Contractor. City shall determine the liability limit.

EXHIBIT B

Contractor's Bid Proposal / Scope of Work

[TO BE ATTACHED / INCORPORATED HEREIN]

EXHIBIT C

Bid Manual Requirements

Bid Manual dated _____, 2011 is incorporated herein by reference.

BOND FOR FAITHFUL PERFORMANCE

KNOW ALL PERSONS BY THESE PRESENTS:

That we, _____ hereinafter referred to as "Contractor" as principal, and _____ hereinafter referred to as "Surety," are held and firmly bound unto the City of Moorpark, California, hereinafter referred to as "City", or "Obligee" in the sum of _____ Dollars (\$ _____), lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, jointly and severally, firmly by these presents.

The condition of the foregoing obligation is such that:

WHEREAS, said Contractor has been awarded and is about to enter into a Contract with the City of Moorpark, California, for construction of a security/retaining wall at 300 High Street, South Metrolink Parking Lot, and is required by said City to give this bond in connection with the execution of said Contract.

NOW, THEREFORE, if said Contractor shall well and truly do and perform all the covenants and obligations of said Contract to be done and performed at the time and in the manner specified herein, then this obligation shall be null and void one year after date of recordation of Notice of Completion by City of the completed work; otherwise it shall be and remain in full force and effect, and Surety shall cause the Contract to be fully performed or to pay to obligee the cost of performing said Contract in an amount not exceeding the said sum above specified, and shall also, in case suit is brought upon this bond, pay to obligee court costs and a reasonable attorney's fee, to be fixed by the court.

IT IS FURTHER PROVIDED, that any alterations in the work to be done or the material to be furnished shall not in any way release the Contractor or the Surety thereunder, nor shall any extensions of time granted under the provisions of the Contract release either the Contractor or the Surety; and notice of such alterations or extensions of the Contract is hereby waived by the Surety.

WITNESS our hands this _____ day of _____, 19.

Contractor _____ By _____

Title _____ By _____

Surety _____ By: _____

**FORM TO ACCOMPANY
BOND FOR FAITHFUL PERFORMANCE**

STATE OF CALIFORNIA)
COUNTY OF) SS.
CITY OF)

On this _____ day _____ of _____, 20____
before me, _____, a Notary Public in and for said County
and State, residing therein, duly commissioned and sworn, personally appeared
_____ of _____ and proved to
me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed
the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s)
on the instrument the person(s), or the entity upon behalf of which the person(s) acted ,
executed the instrument, and the said _____ duly acknowledge to
me that he/she/they subscribed the name of _____
_____ thereto as surety and his/her own as _____.

I certify under PENALTY OF PERJURY under the laws of the State of California
that the foregoing paragraph is true and correct.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official
seal the day and year in the certificate first above written.

Notary Public in and for said
County and State aforesaid

BOND FOR MATERIAL SUPPLIERS AND LABORERS

KNOW ALL PERSONS BY THESE PRESENTS:

That we, _____ hereinafter referred to as "Contractor" as principal, and _____ hereinafter referred to as "Surety," are held and firmly bound unto the CITY OF MOORPARK, CALIFORNIA, hereinafter referred to as "City" in the sum of _____ Dollars (\$ _____), lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, jointly and severally, firmly by these presents.

The condition of the foregoing obligation is such that:

WHEREAS, said Contractor has been awarded and is about to enter into a Contract for construction of a security/retaining wall at 300 High Street, South Metrolink Parking Lot and is required by City to give this bond in connection with the execution of said Contract.

NOW, THEREFORE, if the said principal as Contractor in said Contract or subcontractors fails to pay for any subcontractors, materials, provisions, or its other supplies, or items, used in, upon, for or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, or for amounts due under the Unemployment Insurance Code with respect to such work or labor, said Surety will pay for the same in an amount not exceeding the sum specified above, and also, in case suit is brought upon this bond, a reasonable attorney's fee to be fixed by the court.

This bond shall inure to the benefit of any and all persons named in Section 3181 of the Civil Code of the State of California. This bond shall remain in full force and effect through the term of the Agreement and beyond as set forth herein. The Contractor may cause the Bond to be exonerated six (6) months after the date of recordation of the Notice of Completion by the City and only with the City's written permission. However, Bond shall not be exonerated if claims or stop notices remain outstanding.

IT IS FURTHER PROVIDED, that any alterations in the work to be done or the material to be furnished, which may be made pursuant to the terms of said Contract shall not in any way release either the Contractor or the Surety thereunder, nor shall any extensions of time granted under the provisions of said Contract release either the Contractor or the Surety; and notice of such alterations or extensions of the Contract is hereby waived by the Surety.

**BOND FOR MATERIAL SUPPLIERS AND LABORERS ~
(continued)**

WITNESS our hands this _____ day of _____, 19

Contractor

By _____

Title _____

By _____

Title _____

Surety

By _____

**FORM TO ACCOMPANY BOND FOR
MATERIAL SUPPLIERS AND LABORERS**

STATE OF CALIFORNIA)
COUNTY OF) SS.
CITY OF)

On this _____ day _____ of _____, 20____
before me, _____, a Notary Public in and for said County
and State, residing therein, duly commissioned and sworn, personally appeared
_____ of _____ and proved to
me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed
the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s)
on the instrument the person(s), or the entity upon behalf of which the person(s) acted ,
executed the instrument, and the said _____ duly acknowledge to
me that he/she/they subscribed the name of _____
_____ thereto as surety and his/her own as _____.

I certify under PENALTY OF PERJURY under the laws of the State of California
that the foregoing paragraph is true and correct.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official
seal the day and year in the certificate first above written.

Notary Public in and for said
County and State aforesaid

GENERAL CONDITIONS TO THE CONTRACT FOR CONSTRUCTION

The General Conditions may be supplemented or amended elsewhere in the Contract Documents and other sections of the Project Manual. All provisions which are not so amended or supplemented remain in full force and effect.

Except as hereinafter provided, the provisions of the latest edition of the Standard Specifications for Public Works Construction (SSPWC), and all supplements thereto, prepared and promulgated by the Greenbook Committee of Public Works Standards Inc., formerly the Southern California Chapter of the American Public Works Association and the Associated General Contractors of America, and the following modifications thereto are established as the Standard Specifications for the City. They will be referred to in the General Conditions and contract documents as the "Greenbook". The provisions of the Greenbook shall apply to this Project except as may be modified by other provisions of the Agreement.

Contractor agrees that if there is a conflict between the documents, or a conflict, repetition, or ambiguity within any of the documents, the City shall be the sole person to decide which document or provision shall govern, to the interest of the City. If there is a conflict between the General Conditions and the Special Specifications Federal Transit Administration (FTA) requirements for FTA funded projects, the Special Specifications – FTA requirements shall control.

The City will make the final decisions based on the recommendations of the City's designated Project Representative. David Moe, Redevelopment Manager is the City's project representative assigned to this project and will act as directed by and under the supervision of the City Manager.

In the attached, "City," and "Owner" shall refer to the City of Moorpark, Moorpark, California.

ARTICLE 1

GENERAL CONDITIONS

1.1 BASIC DEFINITIONS

1.1.1 The Contract represents the entire and integrated Agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract shall not be construed to create a contractual relationship of any kind (1) between the City and a Subcontractor or supplier or (2) between any persons or entities other than the City and Contractor.

1.1.2 The term "work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor,

materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The work may constitute the whole or part of the project.

1.1.3 The "project" is the total construction of the work performed under the Contract Documents and may be the whole or a part which may include construction by other Contractors and by the City's own forces including persons or entities under separate contracts not administered by the City.

1.1.4 The "drawings" are the graphic and pictorial portions of the Contract, wherever located and whenever issued, showing the design, location and dimensions of the work, generally including plans, elevations, sections, details, schedules, and diagrams.

1.1.5 The "specifications" are that portion of the Contract consisting of the written requirements for materials, equipment, construction systems, standards and workmanship for the work, and performance of related services.

1.1.6 The Project Manual is the volume assembled for the work which includes without limitation, the bidding requirements and documents, the proposal, sample forms, the contract and conditions of the Contract.

1.1.6.1 The drawings, specifications, project manual, contract and all incorporations by reference comprise the contract documents.

1.2 EXECUTION, CORRELATION AND INTENT

1.2.1 The Contract Documents shall be signed by the City and Contractor as provided in the Contract.

1.2.2 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become familiar with local conditions under which the work is to be performed and correlated personal observations with requirements of the Contract and agrees to all terms and conditions of the contract documents.

1.2.3 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the work by the Contractor. THE CONTRACT DOCUMENTS ARE COMPLEMENTARY, AND WHAT IS REQUIRED BY ONE SHALL BE BINDING AS IF REQUIRED BY ALL.

1.2.4 Organization of the specifications into divisions, sections and articles, and arrangements of drawings shall not control the Contractor in dividing the work among Subcontractors or in establishing the extent of work to be performed by any trade.

1.2.5 Unless otherwise stated in the Contract, words which have well-known technical or construction industry meanings are used in the Contract in accordance with such recognized meanings.

1.3 CAPITALIZATION

1.3.1 Terms capitalized in these General Conditions include those which are (1) specifically defined and (2) the titles of numbered articles and identified references to Paragraphs, Sub-paragraphs and Clauses in this document.

1.4 INTERPRETATION

1.4.1 In the interest of brevity the Contract frequently omits modifying words such as “all” and “any” and articles such as “the” and “an,” but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

ARTICLE 2

OWNER

2.1 DEFINITION

2.1.1 The City is the person or entity identified as such in the Contract and is referred to throughout the Contract as if singular in number. The terms “City” and “Owner” mean the City of Moorpark, and it is the owner.

2.1.2 The City upon reasonable written request shall furnish to the Contractor, in writing, information which is necessary and relevant for the Contractor to evaluate, give notice or enforce claim rights.

2.2 INFORMATION AND SERVICES REQUIRED BY THE CITY

2.2.1 Information or services under the City’s control shall be furnished by the City with reasonable promptness to avoid delay in orderly progress of the work.

2.2.2 As necessary, the City shall forward all communications to the Contractor through the fax and/or first class mail, personal delivery, or overnight delivery service.

2.3 CITY’S RIGHT TO STOP THE WORK

2.3.1 If the Contractor fails to correct work which is not in accordance with the requirements of the Contract, in the required time frames, or persistently fails to carry out work in accordance with the Contract, the City, by written order signed personally or by an agent specifically so empowered by the City in writing, may order the Contractor to stop the work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the City to stop the work shall not give rise to a duty on the part of the City to exercise this right for the benefit of the Contractor or any other person or entity. These remedies are supplemental to remedies found elsewhere in the Contract.

2.4 CITY'S RIGHT TO CARRY OUT THE WORK

2.4.1 Notwithstanding other remedies available to the City, if the Contractor defaults or neglects to carry out the work in accordance with the Contract and fails within a ten calendar day period after receipt of written notice from the City to commence and correct such default or neglect with diligence and promptness, the City, at its sole option and without obligation, may, with their own or outside forces, correct such deficiencies. In such case an appropriate deduction shall be made by the City from payments then, or thereafter, due to the Contractor for the cost of correcting such deficiencies, including compensation for the City's additional services and expenses made necessary by such default, neglect, or failure. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the City. This remedy is cumulative. The City may terminate pursuant to section 12 of the contract.

ARTICLE 3

CONTRACTOR

3.1 DEFINITION

3.1.1 The Contractor is the person or entity identified as such in the Contract and is referred to throughout this Contract as if singular in number. The term "Contractor" means the Contractor or the Contractor's authorized representative.

3.1.2 The plural term "Contractors" refers to persons or entities who perform construction under conditions of the Contract that are administered by the City, and that are identical or substantially similar to these conditions.

3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

3.2.1 In addition to other investigations required by the contract documents, the Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract before commencing activities. Errors, inconsistencies or omissions discovered shall be reported to City Staff at once.

3.2.2 The Contractor shall perform the work in accordance with the Contract.

3.3 SUPERVISION AND CONSTRUCTION PROCEDURES

3.3.1 The Contractor shall supervise and direct the work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures, and all safety requirements for coordinating all portions of work under this Contract, subject to overall

coordination of the Construction, and subject to overall coordination by City Staff as provided in Subparagraphs 4.2.3.

3.3.2 The Contractor shall be responsible to the City for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons performing portions of the work under a contract with the Contractor.

3.3.3 The Contractor shall not be relieved of obligations to perform the work in accordance with the Contract either by activities or duties of City Staff in the administration of the Contract, or by tests, inspections or approvals required or performed by persons other than the Contractor.

3.3.4 The Contractor shall inspect portions of the project related to the Contractor's work in order to determine that such portions are in proper condition to receive subsequent work.

3.4 LABOR AND MATERIALS

3.4.1 Unless otherwise provided in the Contract, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation and other facilities and services necessary for proper execution and completion of the work, whether temporary or permanent and whether or not incorporated or to be incorporated in the work.

3.5 WAGE RATES, PAYROLL RECORDS AND DEBARMENT

3.5.1 The Contractor is aware of the requirements of California Labor Code sections 1720 et seq. and 1770 et seq., as well as California Code of Regulations, Title 8, section 16000 et seq. ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. Since this Project involves an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and since the total compensation is \$1,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. The Contractor shall obtain a copy of the prevailing rates of per diem wages at the commencement of this Agreement from the website of the Division of Labor Statistics and Research of the Department of Industrial Relations located at www.dir.ca.gov/dlsr/. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to perform work on the Project available to interested parties upon request, and shall post copies at the Contractor's principal place of business and at the Project site. Contractor shall defend, indemnify and hold the City of Moorpark, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

3.5.2 The Contractor and each subcontractor shall forfeit as a penalty to the City of

Moorpark not more than fifty dollars (\$50) for each calendar day, or portion thereof, for each worker paid less than the stipulated prevailing wage rate for any work done by him, or by any subcontract under him, in violation of the provisions of the California Labor Code. The difference between such stipulated prevailing wage rate and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the stipulated prevailing wage rate shall be paid to each worker by the Contractor.

3.5.3 As a further material part of this Contract, Contractor agrees to hold harmless and indemnify the City of Moorpark, its Board and each member of the Board, its officers, employees and agents from any and all claims, liability, loss, costs, damages, expenses, fines and penalties, of whatever kind or nature, including all costs of defense and attorneys' fees, arising from any alleged failure of Contractor or its subcontractors to comply with the prevailing wage laws of the State of California. If the City of Moorpark or any of the indemnified parties are named as a party in any dispute arising from the failure of Contractor or its subcontractors to pay prevailing wages, Contractor agrees that the City of Moorpark and the other indemnified parties may appoint their own independent counsel, and Contractor agrees to pay all attorneys' fees and defense costs of the City of Moorpark and the other indemnified parties as billed, in addition to all other damages, fines, penalties and losses incurred by the City of Moorpark and the other indemnified parties as a result of the action.

3.5.4 Accurate payroll records shall be kept by the contractor and each subcontractor, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work.

3.5.5 It shall be the responsibility of Contractor to Comply with Labor Code section 1776 as it may be amended by the Legislature from time to time with respect to each payroll record. As of April, 2003, Labor Code section 1776 provides in relevant part:

"(a) Each contractor and subcontractor shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

(1) The information contained in the payroll record is true and correct.

(2) The employer has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by his or her employees on the public works project.

(b) The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours at the principal office of the contractor on the following basis:

(1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.

(2) A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the body awarding the contract, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations.

(3) A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through either the body awarding the contract, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of preparation by the contractor, subcontractors, and the entity through which the request was made. The public shall not be given access to the records at the principal office of the contractor.

(c) The certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division.

(d) A contractor or subcontractor shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested the records within 10 days after receipt of a written request.

(e) Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the awarding body, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement shall be marked or obliterated to prevent disclosure of an individual's name, address, and social security number. The name and address of the contractor awarded the contract or the subcontractor performing the contract shall not be marked or obliterated. Any copy of records made available for inspection by, or furnished to, a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (Section 175a of Title 29 of the United States Code) shall be marked or obliterated only to prevent disclosure of an individual's name and social security number. A joint labor management committee may maintain an action in a court of competent jurisdiction against an employer who fails to comply with Section 1774. The court may award restitution to an employee for unpaid wages and may award the joint labor management committee reasonable attorney's fee and costs incurred in maintaining the action. An action under this subdivision may not be based on the employer's misclassification of the craft of a worker on its certified payroll records. Nothing in this subdivision limits any other available remedies for a violation of this chapter.

(f) The contractor shall inform the body awarding the contract of the location of the records enumerated under subdivision (a), including the street address, city and county,

and shall, within five working days, provide a notice of a change of location and address.

(g) The contractor or subcontractor shall have 10 days in which to comply subsequent to receipt of a written notice requesting the records enumerated in subdivision (a). In the event that the contractor or subcontractor fails to comply within the 10-day period, he or she shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit twenty-five dollars (\$ 25) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. A contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section.

(h) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section.

(i) A certified copy of all payroll records shall be submitted to the CONSTRUCTION MANAGER no later than the tenth (10th) day of each month for the immediately preceding month. This submission shall be a condition precedent for payment to CONTRACTOR. Failure to submit payroll records shall be grounds of withholding payment to CONTRACTOR until such submission is made.

3.5.6 Debarment. The Contractor or any subcontractor working under the Contractor may not perform work on a public works project with a subcontractor who is ineligible to perform work on a public project pursuant to Section 1777.1 or Section 1777.7 of the California Labor Code. Any contract on a public works project entered into between the Contractor and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a public works contract. Any public money that is paid, or may have been paid to a debarred subcontractor by the Contractor on the project shall be returned to the City of Moorpark. The Contractor shall be responsible for the payment of wages to workers of a debarred subcontractor who has been allowed to work on the project.

3.6 APPRENTICES

3.6.1 Contractor's attention is directed to the provisions of Sections 1777.5, 1777.6, and 1777.7 of the California Labor Code concerning employment of apprentices by the Contractor or any subcontractor under him. The Contractor shall be knowledgeable of and comply with all California Labor Code sections including 1727, 1773.5, 1775, 1777, 1777.5, 1810, 1813, 1860, including all amendments; each of these sections is incorporated by reference into this Contract. The responsibility for compliance with these provisions for all apprentice able occupations rests with the Contractor. Knowing violations of Section 1777.5 will result in forfeiture not to exceed \$100 for each calendar day of non-compliance pursuant to Section 1777.7.

3.7 TAXES

3.5.1 The Contractor shall pay sales, consumer, use and similar taxes for the work or portions thereof provided by the Contractor which are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

3.8 PERMITS, FEES AND NOTICES

3.8.1 The Contractor shall secure and pay for all necessary permits required for the proper execution and completion of the work in this contract, including a City of Moorpark Business Registration Permit, which can be obtained from the Community Development Department.

3.8.2 The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations and lawful orders of public authorities bearing on performance of the work.

3.8.3 If the Contractor performs work knowing it to be contrary to laws, statutes, ordinances, building codes, and rules and regulations, the Contractor shall assume full responsibility for such work and shall bear the attributable costs to remove, correct and/or otherwise comply with the law.

3.9 ALLOWANCES Not used.

3.10 CONTRACTOR'S SUPERVISION/SUPERINTENDENT

3.10.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in full time attendance at the project site during performance of the work. They shall have extensive experience in projects similar to this one. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications shall be confirmed in writing. Other communications shall be similarly confirmed on written request in each case. The Contractor shall give efficient supervision to work, using his/her best skill and attention. He/she shall carefully study and compare all drawings, specifications and other instructions and shall at once report to City Staff any error, inconsistency or omission which he/she may discover.

3.11 CONTRACTOR'S CONSTRUCTION SCHEDULE

3.11.1 The Contractor, promptly after being awarded the Contract, shall submit Contractor's construction schedule for the work. Such schedule shall not exceed time limits current under the Contract, shall be revised at appropriate intervals as required by the contract documents, conditions of the work and progress. The construction schedule shall provide for expeditious and practicable execution of the work and shall show

procurement and submittals. See specifications for further requirements regarding construction schedule.

3.11.2 The Contractor shall cooperate with the City in scheduling and performing the Contractor's work to avoid conflict, delay in, or interference with the work of other Contractors or the construction or operations of the City's own forces.

3.11.3 The Contractor shall prepare and keep current, for City staff approval, a schedule of submittals which is coordinated with the Contractor's construction schedule and allows for a reasonable time for review. Contractor shall also keep current a Request for Information (RFI) schedule and reply record.

3.12 USE OF SITE

3.12.1 The Contractor shall confine operations at the site to areas permitted by law, ordinances, and permits and shall not unreasonably encumber the site with materials or equipment.

3.12.2 The Contractor shall coordinate their operations with, and secure the approval of, the City before using any portion of the site.

3.13 ACCESS TO WORK

3.11.1 The Contractor shall provide the City access to the work in preparation and progress wherever located.

3.14 ROYALTIES AND PATENTS

3.14.1 The Contractor shall pay all royalties and license fees, fees for use of patent rights and shall hold the City harmless from the loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer is required by the Contract.

ARTICLE 4

ADMINISTRATION OF THE CONTRACT

4.1 CITY'S REPRESENTATIVES

4.1.1 One or more Representatives employed by the City may be assigned to the work. His/her duties shall be defined by the City.

4.1.2 The designated City Project Representative or entity is identified as such in the Contract and is referred to throughout the Contract as if singular in number. The designated staff person will act as directed by and under the supervision of the Redevelopment Manager, and will confer with the Redevelopment Manager and City

regarding its actions.

4.1.3 The City's Project Representative shall have full access to all operations involving work under this Contract and shall be provided reasonable advance notice of the time and place of operations which he/she desires to observe.

4.1.4 The Contractor shall furnish City reasonable facilities for obtaining such information as may be necessary to keep them fully informed respecting progress and manner of work and character of materials. Observation of work shall not relieve the Contractor from any obligation to fulfill this Contract. The Executive Director shall have authority to stop work whenever provisions of the Contract are not being complied with and the Contractor shall instruct his/her employees accordingly.

4.1.5 Duties, responsibilities and limitations of authority of City's Representative as set forth in the Contract shall not be restricted, modified or extended without written consent of the City and Contractor. Consent shall not be unreasonably withheld.

4.1.6 In case of termination of employment of the designated staff person, the City shall appoint a staff person whose status under the Contract shall be that of the former staff or higher, respectively.

4.2 ADMINISTRATION OF THE CONTRACT

4.2.1 The City's project representative will provide administration of the Contract as described in the Contract under the direction of the Redevelopment Manager, and will advise the City during construction, until all contractual obligations are completed and contract performed or terminated. The Representative will advise and consult with the City and will have authority as stated in the Contract, unless otherwise modified by written instrument in accordance with other provisions of the Contract.

4.2.2 The City's Project Representative will determine that the work is being performed in accordance with the requirements of the Contract, will keep the Redevelopment Manager informed of the progress of the work, and will endeavor to guard the City against defects, deficiencies in the work and slow progress.

4.2.3 The City's Project Representative will provide for coordination of the activities of other Contractors and of the City's own forces with the work of the Contractor, who shall cooperate with them. The Contractor shall participate with other Contractors and the City in reviewing their construction schedules. The Contractor shall make any revisions to the construction schedule deemed necessary after a joint review and as required by the contract documents. The construction schedules, until subsequently revised, shall constitute the schedules to be used by the Contractor, other Contractors, and City.

4.2.4 The City's Project Representative will not have control over or charge of and will not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the work, since

these are solely the Contractor's responsibility as provided in Paragraph 3.3, and neither will be responsible for the Contractor's failure to carry out the work in accordance with the Contract. The City will not have control over or charge of or be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or of any other persons performing portions of the work.

4.2.5 The Contractor shall communicate directly with the City. Communications by and with Subcontractor's and material suppliers shall be through the Contractor. Communications by and with other Contractors shall be through the City's Project Representative.

4.2.6 The Project Representative will review and certify the applications for payment by the Contractor. City staff will assemble the Contractor's application for payment into a project application and request for payment.

4.2.7 Based on the City's observations and evaluations of Contractor's applications for payment, the application will be processed. Final approval for payment rests with the Executive Director.

ARTICLE 5

SUBCONTRACTORS

5.1 DEFINITIONS

5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the work at the site. The term "Subcontractor" is referred to throughout the Contract as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include other Contractors or Subcontractors of other Contractors. A Subcontractor shall be considered an employee of the Contractor and the Contractor shall be responsible for his/her work.

5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the work at the site. The term "Sub-subcontractor" is referred to throughout the Contract as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

5.2.1 All contracts between the general Contractor and its subcontractors and suppliers shall include a provision that the subcontractors and suppliers shall be bound to the Contractor to the same extent that the Contractor is bound to the City by all terms and provisions of the Contract, and shall incorporate the contract by reference into all subcontracts. If the Contractor shall subcontract any part of this Contract, the Contractor

shall be as fully responsible to the City for acts and omissions of Subcontractor and of persons either directly or indirectly employed by Subcontractor, as he/she is for acts and omissions of persons directly employed by himself/herself. Nothing contained in the Contract shall create any contractual relation between any Subcontractor and the City.

5.2.2 Contractor will comply with the bidding requirements, and shall furnish in writing for review by the City, the names of persons or entities including those who are to furnish materials or equipment fabricated to a special design proposed for each principal portion of the work.

5.2.3 The City's consent to or approval of any Subcontractor under this Contract shall not in any way relieve the Contractor of his/her obligations under this Contract and no such consent or approval shall be deemed to waive any provision of this Contract.

5.2.4 The Contractor shall not contract with a proposed person or entity to whom the City has made reasonable and timely objection. The Contractor shall not contract to any unlicensed or uninsured Subcontractor or supplier.

5.2.5 The Contractor shall not change a Subcontractor, person or entity previously approved if the City makes reasonable objection to such change. Substitution or addition shall be permitted only as authorized in Chapter 2 (commencing at Section 4100) Division 5, Title 1 of California Government Code.

5.3 SUBCONTRACTUAL RELATIONS

5.3.1 Each subcontract agreement shall preserve and protect the rights of the City, under the Contract with respect to the work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by this Contract, has against the City. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement which may be at variance with the Contract. Subcontractors shall similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

5.4 MUTUAL RESPONSIBILITY

5.4.1 The Contractor shall afford the City's own forces and other Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the City.

5.4.2 If part of the Contractor's work depends for proper execution or results upon construction or operations by the City's own forces or other Contractors, the Contractor shall, prior to proceeding with that portion of the work, promptly report to the City apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Contractor to report these discrepancies and defects shall constitute an acknowledgment that the City's own forces or other Contractors' completed or partially completed construction is fit and proper to receive the Contractor's work.

5.4.3 The Contractor shall promptly remedy damage wrongfully caused by the Contractor to completed or partially completed construction or to property of the City or other Contractors.

5.4.4 Claims and other disputes and matters in question between the Contractor and other Contractors shall be subject to the applicable provisions of the Public Contract Code.

5.5 CITY'S RIGHT TO CLEAN UP

5.5.1 If a dispute arises among the Contractor, other Contractors and the City as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the City may clean up and allocate the cost among those responsible as the City determines to be equitable.

ARTICLE 6

CHANGES IN THE WORK

6.1 CHANGES

6.1.1 Changes in the work may be accomplished after execution of the Contract, and without invalidating the Contract, by change order, construction change directive or order for a minor change in the work, subject to the limitations stated in this Article 6 and elsewhere in the Contract.

6.1.2 A change order shall be based upon prior written agreement among the City, and Contractor; a construction change directive requires prior written agreement by the City and may or may not be agreed to by the Contractor; an order for a minor change in the work may be issued by the City. Final approval for all change orders rests with the City. The City's City Manager is the final approving authority.

6.1.3 Changes in the work shall be performed under applicable provisions of the Contract, and the Contractor shall proceed promptly, unless otherwise provided in the change order, construction change directive or order for a minor change in the work.

6.1.4 Requests for changes and time extensions may be submitted in letter form with

detailed backup and substantiated reasons attached. All requests submitted without detailed backup and substantiated reasons and will be returned without action.

6.2 CHANGE ORDERS

6.2.1 A change order is a written instrument prepared by the City and signed by the City and Contractor, stating their agreement upon all of the following:

1. a subsequent change in the work;
2. the amount of the adjustment in the Contract lump sum, if any; and
3. the extent of the adjustment in the Contract time, if any.

6.3 CONSTRUCTION CHANGE DIRECTIVES

6.3.1 A construction change directive is a written order prepared and signed by the City, directing a change in the work and stating a proposed basis for adjustment, if any; in the Contract lump sum or Contract time, or both. The City may, by construction change directive, without breaching the contract, order changes in the work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract lump sum and Contract time being adjusted accordingly, in accordance with provisions of the contract documents.

6.3.2 A construction change directive shall be used in the absence of total agreement on the terms of a change order or pending change order.

6.3.3 If the construction change directive provides for an adjustment to the Contract lump sum, the adjustment shall be based on one of the following methods, and in accordance with provisions of the contract documents:

1. Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
2. Unit prices stated in the Contract or subsequently agreed upon in writing;
3. Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
4. as provided in Subparagraph 6.3.6.

6.3.4 Upon receipt of a Construction change directive, the Contractor shall promptly proceed with the change in the work involved and advise the City of the Contractor's agreement or disagreement with the method, if any, provided in the Construction change directive for determining the proposed adjustment in the Contract lump sum or Contract time.

6.3.5 A Construction change directive signed by the Contractor indicates the agreement of the Contractor therewith, including adjustment in Contract lump sum and Contract time or the method for determining them. Such agreement shall be executed as a change order.

6.3.6 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract lump sum, the method and the adjustment shall be determined by the City on the basis of reasonable expenditures and savings of those performing the work attributable to the change, including, in case of an increase or decrease in the Contract lump sum, the pre-determined percentage for overhead and profit. In such case, the Contractor shall keep and present, in such form as the City may prescribe, an itemized account together with appropriate supporting data. Unless otherwise provided in the Contract, costs for the purposes of this Subparagraph 6.3.6 shall be limited to the following:

1. Costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers compensation insurance;
2. Costs of materials, supplies and equipment, including cost of delivery by supplier, whether incorporated or consumed;
3. Reasonable, competitive rental costs of equipment over \$75/day, exclusive of hand tools and contractor owned vehicles, whether rented from the Contractor or others;
4. Permit fees, and sales, use or similar taxes related to the work; as limited in the conditions of the Contract.

6.3.7 Pending final determination of cost to the City, amounts not in dispute may be included in applications for payment if a change order, to that effect has been signed by the parties. The amount of credit to be allowed by the Contractor to the City for a deletion or change which results in a net decrease in the Contract lump sum shall be actual net cost as confirmed by the City. When both additions and credits covering related work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of increase, if any, with respect to that change.

6.3.8 If the City and Contractor agree with the determination concerning the adjustments in the Contract lump sum and Contract time, or otherwise reach agreement upon the adjustments, such agreement shall be recorded by preparation and execution of an appropriate change order. Change Orders do not become effective until executed by all parties.

6.3.9 If the City and Contractor do not agree on adjustments to the Contract lump sum or Contract time, then this shall be considered a dispute and shall be resolved pursuant

to the applicable provisions of the Public Contract Code.

ARTICLE 7

TIME

7.1 DEFINITIONS

7.1.1 Unless otherwise provided, time for performance is the number of calendar days and/or hours, including authorized adjustments, allotted in the Contract for substantial completion of the work.

7.1.2 The date of commencement of the work is the date stated in the Notice to Proceed issued by the City. The date shall not be postponed by the failure to act of the Contractor or of persons or entities for which the Contractor is responsible.

7.1.3 The date the project is completed is the date so certified by the City.

7.1.4 The term "day" as used in the Contract shall mean calendar day unless otherwise specified.

7.2 PROGRESS AND COMPLETION

7.2.1 Time limits stated in the Contract are of the essence. By submitting the proposal, the Contractor confirms that the Contract time is a reasonable period for performing the work.

7.2.2 The Contractor shall not knowingly, except by prior consent or direction of the City in writing, prematurely commence operations on the site or elsewhere prior to the effective date of insurance required by the Contract to be furnished by the Contractor. The date of commencement of the work shall not be changed by the effective date of such insurance. The date of commencement will be established by a notice to proceed given by the City.

7.3 DELAYS AND EXTENSION OF TIME

7.3.1 Subject to provisions of the Project Manual, the Contractor may request a time extension to the contract. He/she may request an extension listing reasons for the delay and submitting substantiating evidence. If the City determines the request is reasonable, a change order may be issued for said time extension.

7.3.2 Claims relating to time shall be made in accordance with applicable provisions of Paragraph 4.3 and other appropriate sections of the contract documents.

ARTICLE 8

PAYMENTS AND COMPLETION

8.1 CONTRACT LUMP SUM

8.1.1 The Contract lump sum is stated in the Contract and, including authorized adjustments, is the maximum amount payable by the City to the Contractor for performance of the work under the Contract.

8.2 APPLICATIONS FOR PAYMENT

8.2.1 Contractor shall submit to the City an itemized application for payment for work completed in accordance with the schedule of values, if applicable. The application will be supported by such data substantiating the Contractor's right to payment as the City may require.

8.2.2 Amounts billed by subcontractor or supplier are not a measure of work completed.

8.2.3 The Contractor warrants that upon submittal of an application for payment all work for which recommendation for payment has been requested shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, material or equipment relating to the work. Copies of applicable releases should be submitted with the Contractor's invoice.

8.2.4 Payment shall be made pursuant to payment terms, payment schedule and requirements of the Contract.

8.2.5 Application for payment shall be submitted using the Contractor's own form of invoice.

8.2.6 Payment shall be made as a lump sum pursuant to the Contract provisions.

8.2.7 Substantial completion does not constitute approval for final payment nor final acceptance of the work.

8.2.8 Payment requests will be rejected due to lack of, or improper releases or other improper or incomplete documents required to be submitted with payment requests, as determined by the City.

8.2.9 For all payments made under this contract, there will be no separate "Certificate for Payment." The owner's issuance of a check constitutes a certificate of payment.

8.3 RECOMMENDATION FOR PAYMENT

8.3.1 The Contractor will assemble a project invoice by certifying the amounts due and forwarding them to the Project Representative, along with all required releases and certified payroll documents.

8.3.2 Within ten working days after receipt of the project application for payment, the City will either issue a recommendation for payment, for such amounts as the City determines is properly due, or notify the Contractor in writing of the reasons for withholding certification in whole or in part as provided in Subparagraph 8.4.1.

8.3.3 The issuance of a recommendation for payment will constitute representations made separately to the City, based on individual observations at the site and the data comprising the application for payment submitted by the Contractor, that the work has been completed and that, to the best of the City's knowledge, information and belief, the quality and quantity of the work conforms to the Contract. The foregoing representations are subject to an evaluation of the work for conformance with the Contract upon substantial completion, to results of subsequent tests and inspections, to minor deviations from the Contract correctable prior to completion and to specific qualifications expressed by the City. The issuance of a recommendation for payment will further constitute a representation that the Contractor is entitled to payment in the amount certified. However, the recommendation for payment will not be a representation that the City has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the work, (2) reviewed the Contractor's construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the City to substantiate the Contractor's right to payment or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract lump sum.

8.4 DECISIONS TO WITHHOLD CERTIFICATION

8.4.1 The City may decide not to certify payment and may withhold a recommendation for payment in whole or in part, to the extent reasonably necessary to protect the City, if in the City's opinion the representations to the City required by Subparagraph 8.3.3 cannot be made. If the City's Representative is unable to certify payment in the amount of the application, the City will notify the Contractor. If the Contractor and City cannot agree on a revised amount, the City will promptly issue a recommendation for payment for the amount for which the City is able to make such representations. The City may also decide not to certify payment or, because of subsequently discovered evidence or subsequent observations, may nullify the whole or a part of a recommendation for payment previously issued, to such extent as may be necessary to protect the City from loss because of, but not limited to, the following:

1. Defective work not remedied;

2. Third party claims filed or reasonable evidence indicating probable filing of such claims;
3. Alleged failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;
4. Reasonable evidence that the work cannot be completed for the unpaid balance of the Contract lump sum;
5. Damage to the City or another contractor or third party allegedly by Contractor, his/her agent or employee;
6. Reasonable evidence that the work will not be completed within the Contract time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
7. Persistent failure to carry out the work in accordance with the Contract;
8. Re-testing of non-passing tests, reimbursement for inspections, overtime and minimum times not used;
9. Alleged breach of terms and conditions of Contract Documents;
10. Disputed items and issues;
11. Liquidated damages; or
12. Payments which may be past due and payable for just claims against Contractor or any Subcontractor for labor or materials furnished in and about the performance of work on the project under this Contract; and/or
13. Improper, incomplete or unacceptable documents, releases or back up materials.

8.4.2 When the above reasons for withholding certification are removed to the City's satisfaction, certification will be made for amounts previously withheld.

8.4.3 The City may apply such withheld amount or amounts to payment of such claims or obligations at his/her discretion. In so doing, the City shall be deemed the agent of the Contractor and any payment so made by the City shall be considered as a payment made under Contract by the City to the Contractor and the City shall not be liable to the Contractor for such payments made in good faith. Such payments may be made without prior judicial determination of claim or obligations. The City will render the Contractor a proper accounting of such funds disbursed on behalf of the Contractor.

8.5 FINAL COMPLETION AND FINAL RETENTION PAYMENT

8.5.1 Upon completion of the work, as specified in the Contract, the Contractor shall forward to the City a written notice that the work is ready for final inspection and acceptance and shall also forward to the City a Contractor's application for final retention payment. When the City finds the work to be acceptable under the Contract and the Contract fully performed, the City will approve the recordation of a Notice of Completion based on the recommendation that to the best of their knowledge, information and belief, and on the basis of their observations and inspections, the work has been completed in accordance with terms and conditions of the Contract.

8.5.2 In addition to the above, no final retention payment shall be paid until the Contractor submits to the City (1) final certified payroll; (2) release statements or waivers of liens from all subcontractors indicating that they have been paid for their portion of work on this job; and (3) a copy of the building permit showing final sign-off from the City inspector.

8.5.3 Once all documentation has been furnished, the Contractor will not receive payment of final retention until 30 days have passed from the date the Notice of Completion records.

ARTICLE 9

PROTECTION OF PERSONS AND PROPERTY

9.1 SAFETY PRECAUTIONS AND PROGRAMS

9.1.1 The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract including, without limitation, safety, job meetings and training. The Contractor shall submit the Contractor's safety program to the City and coordinate with the safety programs of other Contractors. Contractor will furnish minutes of all safety meetings to the City.

9.1.2 In the event the Contractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB), the Contractor shall immediately stop work in the area affected and report the condition to the City in writing. The work in the affected area shall not thereafter be resumed except by written agreement of the City and Contractor if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless. The work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the City and Contractor.

9.1.3 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop work

in the affected area and report the condition to the City in writing. The City shall then proceed in the same manner described in Subparagraph 9.1.2.

9.2 SAFETY OF PERSONS AND PROPERTY

9.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:

1. Employees on the job and other persons who may be affected thereby;
2. The work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors;
3. Other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction; and
4. Construction or operations by the City or other Contractors.

9.2.2 The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

9.2.3 The Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities.

9.2.4 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

9.2.5 The Contractor shall promptly remedy damage and loss (whether or not insured under property insurance required by the Contract) to property referred to in subparagraph 9.2.1 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, supplier, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under subparagraph 9.2.1. This includes damage or loss caused by unknown persons or causes. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under the indemnity sections of the Contract.

9.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor

in writing to the City.

9.2.7 The Contractor shall not load or permit any part of the construction or site to be loaded so as to endanger safety to persons or property.

9.3 EMERGENCIES

9.3.1 In an emergency affecting safety of persons or property; the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Paragraph 4.3 and Article 7.

ARTICLE 10

INSURANCE

10.1 CONTRACTOR'S INSURANCE (See Bid Terms and Conditions for additional insurance requirements)

10.1.1 The Contractor shall purchase from and maintain in a company or companies "admitted" by the State of California such insurance as specified in the Contract Documents for this project as will protect the Contractor from claims which may arise out of or result from the Contractor's operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

10.1.2 The insurance required by Subparagraph 10.1.1 shall be written for not less than limits of liability specified in the Contract Documents or required by law, whichever coverage is greater. Coverages must be written on an occurrence basis and shall be maintained without interruption from date of commencement of the work until after guarantee period expires and City has given written permission to cancel insurance.

10.1.3 Certificates of Insurance acceptable to the City shall be submitted to the City prior to commencement of the work. Additional certificates evidencing continuation of coverage after final payment shall be submitted with the final Application for Payment as required by Subparagraph 10.1.2.

10.1.4 All certificates must be original. An endorsement, the form of which is specified in the Contract Documents, naming the Agency as additional insured must also be submitted before the Notice to Proceed will be issued.

10.1.5 The Contractor shall obtain all insurance coverage required by this section. Said insurance coverage is required in addition to all other insurance coverage required by other provisions of the Contract Documents. Contractor to pay all deductibles.

10.1.6 Before an exposure to loss may occur, the Contractor shall file with the Owner a copy of each policy that includes insurance coverages required by this Paragraph 10.1. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. Each policy shall contain a provision that the policy will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner.

SPECIAL SPECIFICATIONS

FEDERAL TRANSIT ADMINISTRATION (FTA) REQUIREMENTS (EXCERPT AS OF DECEMBER 2010) For FTA funded projects

1. Audit and Inspection

Contractor shall permit the authorized representatives of City, the Ventura County Transportation Commission (VCTC), the United States Department of Transportation (USDOT) and the Controller General of the United States to inspect and audit all data and records of Contractor relating to its performance under this Agreement.

Contractor also shall maintain all required records relating to this project for at least three (3) years after City makes final payment and all other pending matters are closed.

2. Disadvantaged Business Enterprise (DBE)

A DBE is a business owned and controlled by one or more socially and economically disadvantaged individuals. For the purpose of definition, DBE means an enterprise with control by an individual or individuals who is/are Female, Black American, Hispanic American, Asian Pacific American, Asian Indian American or Native American, and other minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to Section 8(a) of the Small Business Act, as further described in FTA Circular C4716.1A, incorporated into 49 Code of Federal Regulations (CFR) Part 26.

Owned and controlled means a business which is: (1) A sole proprietorship legitimately owned by a socially and economically disadvantaged individual; (2) A partnership or joint venture controlled by socially and economically disadvantaged individuals, and in which at least fifty-one percent (51%) of the beneficial ownership interests legitimately are held by socially and economically disadvantaged individuals; or (3) A corporation or other entity controlled by socially and economically disadvantaged individuals, in which at least fifty-one percent (51%) of the voting interests legitimately are held by socially and economically disadvantaged individuals.

In connection with the performance of this Agreement, Contractor shall cooperate with the VCTC in meeting commitments and goals with regard to the maximum utilization of DBE and will use its best efforts to ensure that DBE shall have the maximum practicable opportunity to compete for subcontract work under this Agreement. Contractor shall submit with proposal certification of the actual percentage of DBE utilization for this project. Contractor's failure to make good faith efforts to comply with VCTC's DBE program shall be considered a material breach of this Agreement and may give rise to certain administrative penalties and proceedings, including, but not limited to, those set forth in 49 CFR Part 26.107.

The VCTC has established a DBE Program pursuant to 49 CFR Part 26, which applies to this Agreement. The requirements and procedures of VCTC's DBE Program are hereby incorporated by reference into this Agreement. VCTC has a race-neutral program, and there is no DBE goal associated with this Project. Each party to this Agreement shall ensure that compliance with VCTC's DBE Program shall be included in any and all sub-agreements entered into which arise out of or are related to this Agreement. Failure by any party to this Agreement to carry out VCTC's DBE Program procedures and requirements or applicable requirements of 49 CFR Part 26 shall be considered a material breach of this Agreement, and may be grounds for termination of this Agreement, or such other appropriate administrative remedy.

3. Prompt Payment to Subcontractors

No later than thirty (30) working days after receiving payment of retention from City for work satisfactorily performed by any of its subcontractors for services rendered arising out of or related to this Agreement, Contractor shall make full payment to its subcontractors of all compensation due and owing under the relevant subcontract agreement, unless excused by City for good cause pursuant to paragraph A below.

No later than thirty (30) days after receiving payment of retention from City for work satisfactorily performed by any of its subcontractors for services rendered arising out of or related to this Agreement, Contractor shall also make full payment to its subcontractors of all retentions withheld by it pursuant to the relevant subcontract agreement, unless excused by City for good cause pursuant to paragraph A below.

- A. **Good Cause:** Contractor may only delay or postpone any payment obligation (or retention) to any of its subcontractors for services rendered arising out of or related to this Agreement where, in City's sole estimation, good cause exists for such a delay or postponement. All such determinations on City's part that good cause exists for the delay or postponement of Contractor's payment obligation to its subcontractor must be made prior to the time when payment to the subcontractor would have been otherwise due by Contractor.

4. Equal Employment Opportunity

The following equal employment opportunity requirements apply to this Agreement:

- A. **Race, Color, Creed, National Origin, Sex:** In accordance with Title VII of the Civil Rights Act, as amended, 42 United States Code (USC) Section 5332, Contractor agrees to comply with all applicable equal employment opportunity requirements of the United States Department of Labor (USDOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 CFR Parts 60 et seq., (which implement Executive Order No. 11246 Relating to Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246 Relating to Equal

Employment Opportunity,” 42 USC Section 2000e), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the project for which this Agreement work is being performed. Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment of recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, Contractor agrees to comply with any implementing requirements FTA may issue.

- B. **Age:** In accordance with Section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 USC Section 623 and Federal Transit laws at 49 USC Section 5332, Contractor agrees to refrain from discrimination against present and prospective employees for reasons of age. In addition, Contractor agrees to comply with any implementing requirements FTA may issue.
- C. **Disabilities:** In accordance with Section 102 of the Americans with Disabilities Act of 1990, as amended, 42 USC Section 12112, Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 CFR Part 1630, pertaining to employment of persons with disabilities. In addition, Contractor agrees to comply with any implementing requirements FTA may issue.
- D. **Immigration and Naturalization Act of 1986:** In connection with the execution of this Agreement, Contractor must comply with all aspects of the Federal Immigration and Naturalization Act of 1986.

5. **Debarred Proposers**

Contractor, including any of its officers or holders of a controlling interest, is obligated to inform City by certificate whether or not it is or has been on any list maintained by the United States Government as a Contractor who has been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any Federal contracts. Should Contractor be included on such a list during the performance of this project, it shall so inform City. Certificate pursuant to this provision is included with Agreement as Exhibit 1.

6. **Clean Air**

Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 USC Sections 7401 et seq. Contractor agrees to report each violation to City and understands and agrees that City shall, in

turn, report each violation as required to assure notification to FTA and the appropriate Environmental Protection Agency (EPA) Regional Office. Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

7. Clean Water

Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the federal Water Pollution Control Act, as amended, 33 USC Section 1251 et seq. Contractor agrees to report each violation to City and understands and agrees that City shall, in turn, report each violation as required to assure notification to FTA and the appropriate Environmental Protection Agency (EPA) Regional Office. Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

8. Energy Conservation

Contractor shall recognize mandatory standards and policies relating to energy efficiency that are contained in the State energy conservation plan issued in compliance with the Federal Energy Policy and Conservation Act 42 USC Sections 6321 et seq.

9. Recycled Products

Contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended, 42 USC Section 6962, including, but not limited to, the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

10. Title VI of the Civil Rights Act of 1964

During the performance of this Agreement, Contractor, for itself, its assignees and successors in interest agrees as follows:

A. Compliance with Regulations: Contractor shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the USDOT 49 CFR Part 21, as they may be amended from time to time, (Regulations), which are herein incorporated by reference and made a part of this Agreement.

B. Nondiscrimination: In accordance with Title VI of the Civil Rights Act, as amended, 42 USC Section 200d and Section 303 of the Age Discrimination Act of 1975, as amended, 42 USC Section 6102 and Section 202 of the Americans with Disabilities Act of 1990, 42 USC Section 12132, and Federal Transit laws at 49 USC Section 5332, Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, Contractor agrees to comply with

applicable Federal implementing regulations and other implementing requirements FTA may issue.

- C. **Solicitations for Subcontractors, Including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by Contractor for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by Contractor of Contractor's obligations under this Agreement and the Regulations relative to non-discrimination on the grounds of race, color, or national origin.
- D. **Information and Reports:** Contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by City or the FTA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, Contractor shall so certify to City or the FTA as appropriate, and shall set forth what efforts it has made to obtain the information.
- E. **Sanctions for Noncompliance:** In the event of Contractor's noncompliance with nondiscrimination provisions of this Agreement, City shall impose sanctions as it or the FTA may determine to be appropriate, including, but not limited to:
 - 1. withholding of payments to Contractor under the Agreement until Contractor complies; and/or
 - 2. cancellation, termination, or suspension of the Agreement, in whole or in part.
- F. **Subcontracts:** Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.
- G. **Incorporation of Provisions:** Contractor shall include the provisions of paragraphs "A" through "F" in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

11. **Contract Work Hours and Safety Standards Act (CWHSS)**

The following CWHSS requirements apply to this Agreement:

- A. **Overtime Requirements:** The CWHSSA, 40 USC Sections 327-333 applies to all agreements over \$100,000 that may require or involve laborers or mechanics. The CWHSSA requires that laborers or mechanics cannot be required, or permitted, to work more than forty (40) hours in any workweek unless paid overtime at not less

than one and one-half (1.5) times the basic rate of pay.

- B. Violation; Liability for Unpaid Wages; Liquidated Damages:** In the event of any violation of the clause set forth in paragraph (A) of this section Contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen, and guards, employed in violation of the clause set forth in paragraph (A) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (A) of this section.
- C. Withholding for Unpaid Wages and Liquidated Damages:** City shall upon its own action or upon written request of an authorized representative of the USDOL withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the CWHSS, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (B) of this section.
- D. Subcontracts:** Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.
- E. Payrolls and Basic Records:** Payrolls and basic records relating thereto shall be maintained by Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR Part 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan program described in section 1(b)(2)(B) of the Davis-Bacon Act, Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan program has been communicated in writing to the laborers or

mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

- F. **Section 107 of the CWHSS:** Contractor agrees to comply with section 107 of the CWHSS, 40 USC Section 333, and applicable DOL regulations, "Safety and Health Regulations for Construction" 29 CFR Part 1926. Among other things, Contractor agrees that it will not require any laborer or mechanic to work in unsanitary, hazardous, or dangerous surroundings or working conditions.
- G. **Subcontracts:** Contractor also agrees to include the requirements of this section in each subcontract. The term "subcontract" under this section is considered to refer to a person who agrees to perform any part of the labor or material requirements of a contract for construction, alteration or repair. A person who undertakes to perform a portion of a contract involving furnishing of supplies or materials will be considered a "subcontractor" under this section if the work in question involves the performance of construction work and is to be performed: (1) directly on or near the construction site, or (2) by the employer for the specific project on a customized basis. Thus, a supplier of materials which will become an integral part of the construction is a "subcontractor" if the supplier fabricates or assembles the goods or materials in question specifically for the construction project and the work involved may be said to be construction activity. If the goods or materials in question are ordinarily sold to other customers from regular inventory, the supplier is not a "subcontractor." The requirements of this section do not apply to contracts or subcontracts for the purchase of supplies or materials or articles normally available on the open market.

12. Access to Records and Reports

Contractor agrees to provide VCTC, the FTA Administrator, the Comptroller General of the United States or of any of their authorized representatives access to any books, documents, papers and records of Contractor which are directly pertinent to this Agreement for the purposes of making and conducting audits, inspections, examinations, excerpts, and transcriptions.

Contractor also agrees, pursuant to 49 CFR Part 633.1.7, to provide the FTA Administrator or his or her authorized representatives, including any Project Management Oversight (PMO) contractor, access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 USC Section 5302(a)1, which is receiving federal financial assistance through the programs described in 49 USC Sections 5307, 5309 or 5311. Contractor agrees to permit any of

the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

Contractor agrees to maintain all books, records, accounts and reports required under this Agreement for a period of not less than three years after the date of termination or expiration of this Agreement, except in the event of litigation or settlement of claims arising from the performance of this Agreement, in which case Contractor agrees to maintain such books, records, account and reports until the VCTC, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.

13. Cargo Preference – Use of United States Flag Vessel

Pursuant to 46 CFR Part 381, the following provisions are applicable in the event equipment, materials or commodities will be transported by ocean vessel in carrying out the work under this Agreement. In such event, Contractor agrees as follows:

- A. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, materials or commodities pursuant to this Agreement, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels.
- B. To furnish within 20 days following the date of loading for shipments originating within the United States, or within 30 working days following the date of a rated, "on board" commercial bill-of-lading in English for each shipment of cargo described in subparagraph A above to the City (through the contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, 400 Seventh Street SW, Washington D.C. 20590, marked with appropriate identification of the project.
- C. To insert the substance of the provisions of this clause in any subcontracts issued pursuant to this Agreement when the subcontract may involve the transport of equipment, material or commodities by ocean vessel.

14. Subcontractors' Certificate Regarding Debarment, Suspension, Ineligibility or Voluntary Exclusion

- A. Contractor shall include in each subcontract exceeding \$100,000, regardless of tier, a clause requiring each lower tiered subcontractor to provide the certification set forth in paragraph B of this section. Each subcontract, regardless of tier, shall contain a provision that the subcontractor shall knowingly enter into any lower tier subcontract exceeding \$100,000 with a person who is disbarred, suspended or declared ineligible from obtaining federal assistance funds. If a proposed

subcontractor is unable to certify to the statements in the following certification, Contractor shall promptly notify City and provide all applicable documentation.

- B. Each subcontractor with a subcontract exceeding \$100,000 shall certify as follows:

Subcontractor's Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion

1. _____ ("subcontractor") certifies, by submission of its proposal to _____ ("Contractor"), that neither it nor its "principals" (as defined in 49 CFR Part 29.105(p)1) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in contracts by any Federal department or agency.
2. If subcontractor is unable to certify to the statements in the certification, subcontractor has attached a written explanation to its proposal to Contractor.

15. No Obligation by the Federal Government

City and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Agreement, absent the express written consent by the Federal Government, the Federal Government is not a party to this Agreement and shall not be subject to any obligations or liabilities to City, Contractor, or any other party (whether or not a party to that Agreement) pertaining to any matter resulting from the underlying Agreement.

Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

16. Program Fraud and False or Fraudulent Statements or Related Acts

Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC Sections 3801 et seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its actions pertaining to this Agreement. Upon execution of the underlying Agreement, Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying Agreement or the FTA assisted project for which this Agreement work is being performed. In addition to other penalties that may be applicable, Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Contractor to the extent the Federal Government deems appropriate.

Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 USC Section 5307, the Federal Government reserves the right to impose the penalties of 18 USC Section 1001 and 49 USC Section 5307(n)(1) on Contractor, to the extent the Federal Government deems appropriate.

Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

17. Lobbying

Contractor shall file the certification required by 49 CFR Part 20, "New Restrictions on Lobbying," provided in Exhibit 2. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 USC Section 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 USC Section 1352. Such disclosures are forwarded from tier to tier up to the recipient.

18. Copeland Anti-Kickback Act

Contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this Agreement.

19. Protest Procedures

The FTA will only review protests regarding alleged failure of City to follow the written and adopted Agreement protest procedures.

20. FTA Role in Bid Protests

Protestors shall file a protest with FTA not later than five (5) days after a final decision is rendered under City's protest procedure. In instances where the protestor alleges that City failed to make a final determination on the protest, protestors shall file a protest with FTA not later than five (5) days after the protestor knew or should have known of City's failure to render a final determination on the protest.

Protests should be filed with the appropriate FTA Regional Office with a concurrent copy to the grantee. The protest filed with FTA shall:

Include the name and address of the protestor.

Identify the grantee, project number, and the number of the contract solicitation.

Contain a statement of the grounds for the protest and any supporting documentation. This should detail the alleged failure to follow protest procedures or the alleged failure to have procedures and be fully supported to the extent possible.

Include a copy of the local protest filed with the grantee and a copy of the grantee's decision, if any.

FTA may dismiss the protest without further process if the protest, as originally filed, fails to establish grounds for FTA review.

21. FEDERAL CHANGES

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the grant agreements between the VCTC and FTA, as they may be amended or promulgated from time to time during the term of this Agreement. Failure by Contractor to so comply shall constitute a material breach of this Agreement. In the event any such changes significantly affect the cost or the schedule to perform the work, Contractor shall be entitled to submit a claim for an equitable adjustment under the applicable provisions of this Agreement.

22. INTEREST OF EMPLOYEES

No member officer or employee of City, during his/her tenure or for one (1) year thereafter, shall have any interest, direct or indirect, in the Agreement or the proceeds thereof.

To each party's knowledge, no City Council member, officer or employee of City has any interest, whether contractual, non-contractual, financial or otherwise, in this transaction, or in the business of the contracting party other than City, and if any such interest comes to the knowledge of either party at any time, a full and complete disclosure of all such information shall be made in writing to the other party or parties, even if such interest would not be considered a conflict of interest under Article 4 (commencing with Section 1090) or Article 4.6 (commencing with Section 1120) of Division 4 of Title 1 of the Government Code of the State of California.

23. INTEREST OF MEMBERS OF CONGRESS

No member of or delegate of the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefit arising therefrom.

24. BUY AMERICA REQUIREMENTS

Contractor agrees to comply with 49 USC Section 5323(j) and 49 CFR Part 661, which provided that Federal Funds may not be obligated unless steel, iron, and manufactured products in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the project is subject to a general waiver listed in 49 CFR 661.7. Contractor shall file the certification provided in Exhibit 3.

25. Incorporation of FTA Terms

The provisions in these Special Specifications include, in part, certain Standard Terms and Conditions required by the USDOT, whether or not expressly set forth in the preceding provisions. All contractual provisions required by USDOT, as set forth in FTA Circular 4220.1F, dated November 1, 2008, as it may be amended from time to time, are hereby incorporated in this Agreement reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. Contractor shall not perform any act, fail to perform any act or refuse to comply with any requests of City which would cause City to be in violation of the FTA terms and conditions.

The following three exhibits are to be filled out by Contractor and returned with the Agreement documents:

(EXHIBITS BELOW ARE ALSO PROVIDED IN THE SECTION OF BID DOCUMENTS TO BE RETURNED)

Exhibit 1 – Suspension and Debarment Certification

Exhibit 2 – Lobbying Certification

Exhibit 3 – Buy America Compliance

**EXHIBIT 1
SUSPENSION AND DEBARMENT CERTIFICATION**

**CERTIFICATION OF PRIMARY PARTICIPANT REGARDING DEBARMENT,
SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

The Primary Participant (applicant for an FTA grant or cooperative agreement, or Potential Contractor for a major third party contract), certifies to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction,- violation of Federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
4. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(If the primary participant (applicant for an FTA grant, or cooperative agreement, or potential third party contractor) is unable to certify to any of the statements in this certification, the participant shall attach an explanation to this certification.)

THE PRIMARY PARTICIPANT (APPLICATION FOR AN FTA GRANT OR COOPERATIVE AGREEMENT, OR POTENTIAL CONTRACTOR FOR A MAJOR THIRD PARTY CONTRACT), _____ CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. SECTIONS 3801 ET. SEQ. ARE APPLICABLE THERETO.

Signature of Contractor's Authorized Official

Date

Typed Name and Title of Contractor's Authorized Official

**EXHIBIT 2
LOBBYING CERTIFICATION**

As required by U.S. DOT regulations, "New Restrictions on Lobbying," at 49 CFR 20.110, I certify to the best of my knowledge and belief that for each application for federal assistance exceeding \$100,000: (1) No Federal appropriated funds have been or will be paid, by or on behalf of _____, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress pertaining to the award of any Federal assistance, or the extension, continuation, renewal, amendment, or modification of any Federal assistance agreement; and (2) If any funds other than Federal appropriated funds have been or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any application to FTA for Federal assistance, I assure that Standard Form-LLL, "Disclosure Form to Report Lobbying," would be submitted and would include all information required by the form's instructions.

I understand that this certification is a material representation of fact upon which reliance is placed and that submission of this certification is a prerequisite for providing Federal assistance for a transaction covered by 31 U.S.C. 1352. I also understand that any person who fails to file a required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

Signature & Title of Authorized Official

Date

**EXHIBIT 3
BUY AMERICA COMPLIANCE**

Certification of Buy America Compliance for Procurement of steel, iron, or manufactured products (49 USC Section 5323(j)(1)).

The bidder hereby certifies that it will meet the requirements of 49 USC Section 5323(j)(1), Section 165(a) of the Surface Transportation Assistant Act of 1982, as amended, and the applicable regulations in 49 CFR Part 661.

Date _____

Signature _____

Company Name _____

Title _____

Certification of Buy America Non-Compliance for Procurement of steel, iron, or manufactured products (40 USC Section 5323(j)(1)).

The bidder hereby certifies that it cannot comply with the requirements of 40 USC Section 5323(j)(1), Section 165(a) of the Surface Transportation Assistant Act of 1982, as amended, but it may qualify for an exception to the requirement pursuant to Section 165(b)(2) or (b)(4) of the Surface Transportation Assistance Act of 1982, as amended, and the applicable regulations in 49 CFR Part 661.7.

Date _____

Signature _____

Company Name _____

Title _____

TECHNICAL SPECIFICATIONS

For the Construction of Security/Retaining Wall at 300 High Street, Moorpark, California

If any conditions of the technical specifications, conflict with the Special Specifications – FTA requirements for FTA funded projects, then the Special Specifications shall control.

1. Construct security/retaining wall as per drawings signed/dated February 1, 2011 by CVE Engineering, Inc., (3 sheets). Special Inspections will be required as a part of this project. Special Inspection requests should be coordinated with the City's project representative. Please submit special inspection requests 72 hours prior to the day you will need the inspection.
2. The City has procured the necessary permits to construct this work. Contractor will be required to pull the permit from Building and Safety using their contractor license number.
3. The City of Moorpark has adopted a Construction and Demolition (C&D) ordinance requiring all demolition projects, regardless of cost; new construction projects valued over \$500,000; or renovation projects valued over \$100,000 to divert a minimum of 65% of material generated during the project from disposal in a landfill (through reuse or recycling). The City has created a Construction and Demolition Materials Management Plan (C&DMMP) form to assist applicants to meet these diversion requirements. You will be required to submit a Diversion Security Deposit of 3% of the project valuation to the City to ensure compliance with the ordinance. The deposit will be returned upon verification that you met the 65% diversion requirement. Also, a one time fee for staff time associated with processing your C&D plan will be charged. You have two options to meet this requirement. You may use one of the City's franchised haulers (Waste Management or Moorpark Rubbish Disposal, dependent upon the location of the project) who can provide temporary bins and will dispose of your waste at a city authorized facility. Or you may self-haul your waste to a city authorized certified C&D processing facility. If you self-haul your waste you must use proper hauling vehicles and bins owned by your company and those vehicles must be driven by your employees. Please remember that because this project is a prevailing wage project, the driver of the self-haul vehicle will need to be paid a prevailing wage rate for driving the C&D materials to the authorized facility. **You will need to submit itemized weigh tickets from each facility documenting your C&D recycling and disposal that indicates the weight and type of material recycled or disposed.** These weigh tickets will need to be turned in to the Solid Waste Division and verified prior to final payment release for the job and refund of your C&D diversion security deposit. If diversion requirements are not met, the City will retain the deposit. Please contact the Solid Waste Division at 805-517-6247 with questions about the C&D ordinance or about how to obtain the forms and documentation requirements.

If your project does not meet these valuation limits, you should still be aware that the City of Moorpark has franchise waste haulers, which must be used to dispose of waste

from the project site. If you would like to self-haul your waste you must use proper hauling vehicles and bins owned by your company and driven by your employees. Any contractors in violation of this rule, may be fined or cited.

4. Prior to commencing any demolition work, the Contractor shall contact “Dig Alert” and all serving utilities and make all arrangements necessary to insure that all utilities are properly located before work has begun.

5. Working Hours: Except as noted elsewhere in these Special Provisions, construction working hours shall be limited to the hours between 7:00 a.m. and 3:30 p.m. Monday through Friday, unless otherwise approved by the City Engineer in writing.

Any overtime for construction survey, geotechnical/testing services, and inspection by City representatives, outside of the 7:00 a.m. to 3:30 p.m. hours Monday through Friday, and any work on Saturdays, Sundays and Holidays, shall be paid for by the Contractor, and such costs will be deducted from the progress payments to the Contractor. The City may, at its discretion, provide geotechnical/testing and inspection services on Saturdays at no cost to the Contractor. The Contractor shall provide at least forty-eight hour notification for all overtime work requests.

The following days are recognized as holidays by the City:

- January 1st (New Year's Day)
- 3rd Monday in January (Martin Luther King, Jr. Day)
- 3rd Monday in February (President's Day)
- Last Friday in March (Cesar Chavez Day)
- Last Monday in May (Memorial Day)
- July 4th (Independence Day)
- 1st Monday in September (Labor Day)
- November 11th (Veteran's Day)
- Last Thursday in November (Thanksgiving Day)
- Last Friday in November (Day after Thanksgiving)
- December 25th (Christmas Day)

When any of the above listed holidays falls on Sunday, the holiday shall be observed on the following Monday. Whenever any holiday falls on a Saturday, the holiday shall be observed on the preceding Friday.

6. Verify that areas to remain unaltered adjacent to areas of work are completely secured and properly barricaded to ensure separation of such operations with anybody other than who is authorized to be in construction area before beginning such work. Provide barricades and maintenance thereof, in accordance with applicable Federal, State and local codes and their respective requirements. Install temporary barricades, enclosures and protections before construction work is started.

7. The project site will require the Contractor to park equipment and conduct construction within the ingress/egress traffic of the South Metrolink parking lot property.

This may necessitate that traffic controls be placed in service by the Contractor. Contractor needs to contact the transportation division of the City of Moorpark to coordinate those portions of the work that will disrupt the flow of the ingress/egress traffic. The transportation division can be reached at (805) 517-6257.

8. During construction, take all precautions necessary to mitigate blowing dust and dirt. Use water sprinkling, temporary enclosures, and other methods to limit dust and dirt migration. This is particularly important at this site, due to its proximity to residential properties and the railroad station and the potential for blowing dust to impact these properties. Contractor must comply with governing regulations and County Air Pollution Control District pertaining to environmental protection. Do not use water when it may create hazardous or objectionable conditions such as flooding and pollution. Do not allow trash and material to accumulate on site, have debris hauled off at regular intervals using appropriate City Franchise waste hauler. (See item 3.)

9. Perform construction exercising proper care to prevent injury to the public, workmen and adjoining property. Repair or replace existing work which is damaged by these operations. Return elements of construction and surfaces to conditions that existed prior to the start of operations. Repair adjacent construction or surfaces soiled or damaged by work.

10. Limit operations to the immediate property on which the work is to be performed, do not infringe upon the adjoining roads or rights-of-way. Keep all access routes and adjoining roads and rights-of-way clean at all times. The tracking of mud, dirt or any other debris onto the adjacent and surrounding roads will not be permitted at any time. If there is debris tracked onto roads, at no time will the use of water be an acceptable clean-up method.

11. Limit noise to a reasonable level as related to specific items of equipment used and their hours of use. This does not preclude use of mechanical equipment, i.e. jack hammers, heavy equipment.

12. No blasting will be permitted and burning of rubbish at the site is not allowed.

13. Site and surrounding areas to be left clean and free of any trash or other unsuitable materials.

14. Except as otherwise specified, in the event the contractor encounters on the project site material reasonably believed to be Asbestos, Polychlorinated biphenyl (PCB) or other hazardous materials, contractor shall immediately stop work in the effected area and report the condition to the City's Representative in writing.

15. Submit schedule for approval by the City's Representative indicating proposed methods and sequence of operations for work.

16. Contractor will provide a competent English-speaking Superintendent to oversee

the complete project. The Superintendent shall be present at all times work is being performed. The Superintendent shall have the authority to bind Contractor through Superintendents acts. The Superintendent shall represent the Contractor; communications given to the Superintendent shall be binding on the Contractor.

17. Contractor will be responsible for the security of the site. Contractor shall be responsible for all damages to persons or property that occur as a result of its fault or negligence in the performance of this contract and shall be responsible for the protection of the project site until final acceptance by the City. Contractor shall take all necessary precautions for the safety of workers on the project and shall comply with all applicable federal, state, local and other safety laws, standards, orders, rules, regulations, and building codes to prevent accidents or injury to persons on, about, or adjacent to the premises where work is being performed and to provide a safe and healthful place of employment.

18. Contactor will be responsible to include appropriate construction site Best Management Practices to comply with applicable storm water and urban runoff permits, regulations, codes or laws.

**Metrolink Security/Retaining Wall
Specification No. MPK 11-01
Bid Clarification Notice**

Attachments provided for bidder's use for additional specification clarifications:

- Diagram depicting approved construction staging area for work/materials storage (Note: contractor to provide temporary fencing to secure staging area; parking lot pavement may not be penetrated to install temporary fence)
- Survey grade stake cut sheet prepared by CVE Engineering dated March 25, 2011 (Note: contractor is responsible to include removal of any encroachments within contractors bid price)
- Survey grade stake hub grade cut sheet prepared by CVE Engineering dated March 25, 2011
- Geotechnical Report Update titled New Property Line Retaining Walls, prepared by Pacific Materials Laboratory dated January 26, 2011
- Geotechnical Exploration Report titled Six (6) New Light/Digital Camera Poles, Moorpark Metrolink Parking Area dated February 12, 2007 *(for reference only)*

Answers to Contractor Questions posed at Job Walk:

- Q: What is the number of working days or construction duration?
A: Page 5 of 88 of the Bid Manual, Instructions to Bidders, states: "Construction of Project must be completed by June 30, 2011"; and Page 87 of 88 of the Bid Manual, Technical Specifications, Item 15 states: "Submit schedule for approval by the City's Representative indicating proposed methods and sequence of operations for work." Contractor will schedule their work to complete the construction project by the date indicated.
- Q: The Construction Plan calls for Special Inspections; who will cover this cost?
A: The City will contract with and pay for Geotechnical and Special Inspections as required per the Construction Plans.
- Q: Page 38 of 88 of the Bid Manual, Insurance Requirements, states that Contractor must provide Professional Liability coverage for Architects and Engineers on this project through Contractor. Will this be required as Contractor has no control over work of any Architects or Engineers working on this project?
A: This is City Standard Contract Insurance language and would apply in a design/build project scenario.
- Q: What about export or import of soil? Footing excavations will need to be hauled off?
A: Page 2 of 3 of Plan Set, Note 13 states that all import or export necessary to achieve fine grade, as shown on the Plan, is the responsibility of the Contractor.

Q: Is high-lift grouting allowed?

A: No high-lift grouting will be permitted.

Q: Is the wall to be painted and what are the specifications?

A: Page 2 of 3 of Plan Set, Note 14(d) states "North facing Wall shall be painted with white primer mixed with brown color code 384-180-288-212 (City of Moorpark to provide more details)"

Additional information per City of Moorpark, Public Works: for 5 gallons the color, add for the number 180 is 6, for 288 is 5, and for 212 is 0.

Q: What are the temporary fencing requirements?

A: Page 86 of 88 of the Bid Manual, Technical Specifications, Item 6 states:

"Verify that areas to remain unaltered adjacent to areas of work are completely secured and properly barricaded to ensure separation of such operations with anybody other than who is authorized to be in construction area before beginning such work. Provide barricades and maintenance thereof, in accordance with applicable Federal, State and local codes and their respective requirements. Install temporary barricades, enclosures and protections before construction work is started."

Temporary fencing shall be installed by Contractor behind their work area to the north of the property line. The property line has been staked at seven foot (7') offsets. The work area is to be properly secured at the end of each working day to in a manner to prevent the public from accessing the work area, and meeting applicable safety standards.

Q: What are the traffic control requirements?

A: Page 86-87 of 88 of the Bid Manual, Technical Specifications, Item 6 states:

The project site will require the Contractor to park equipment and conduct construction within the ingress/egress traffic of the South Metrolink parking lot property. This may necessitate that traffic controls be placed in service by the Contractor. Contractor needs to contact the transportation division of the City of Moorpark to coordinate those portions of the work that will disrupt the flow of the ingress/egress traffic. The transportation division can be reached at (805) 517-6257.

The Contractor is responsible to coordinate Contractors proposed methods of traffic control with the transportation division to minimize disruption to ingress and egress of traffic using the Metrolink parking lot, especially during peak morning and afternoon travel times.

Q: Are rebar caps required during construction?

A: Page 2 of 3 of Plan Set, General Notes, Item 5, states: The Contractor shall comply with all applicable Division of Industrial Relations (CAL-OSHA) Safety Standards, in accordance with Section 7-10.4 of the SSPWC.

Answers to Contractor Questions submitted via email:

- Q: Request for Information, Pacific Construction Company, Inc.
How much are the permit fees for this project?
- A: Page 85 of 88 of the Bid Manual, Technical Specifications, Item 2 states:
The City has procured all of the necessary permits to construct this work.
Contractor will be required to pull the permit from Building and Safety using their contractor license number. This supersedes the language on Page 54 of 88 within the General Conditions to the Contract for Construction, Article 3.8, Permits, Fees and Notices, Item 3.8.1, stating that the contractor shall pay for all necessary permits.
As stated at the pre-bid walk, no Metrolink permits are required.
- Q: Request for Information, JEC, Inc.
Sheet 3 of 3 "middle of site" plan shows a jog in the wall. Is this correct? If so, what are the dimensions and the connection details?
- A: Sheet 3 of 3 does depict a jog in the wall at the connection to the existing block wall. At the east end of the new wall, the jog dimension is an 18" return from face of new wall to face of existing wall with a pre-molded expansion joint with caulking between the two walls.
- Q: Request for Information, Falcon Builders, via insurance agent, regarding required insurance coverages.
1. XCU (explosion, collapse, underground hazard) cannot be included;
 2. Pollution Liability cannot be included;
 3. We cannot remove the Contractual Liability exclusion
 4. In lieu of the CG2010 11/85, we can issue a CG2010 07/04 and CG2037 07/04 for completed ops
- A: The bid documents issued specifically stipulated the required insurance coverages and limits necessary for an award of contract to the lowest responsible and responsive bidder to perform the construction work for the project. The insurance coverages you listed and are seeking to exclude or substitute are not in compliance with the bid requirements and can not be approved.

General Note:

City will contact adjacent property owners to advise them of construction work and the removal of improvements encroaching on City property.

###

Bidders are to sign Bid Clarification Notice to and fax back to (805) 517-2530.

[Signatures to follow on next page]

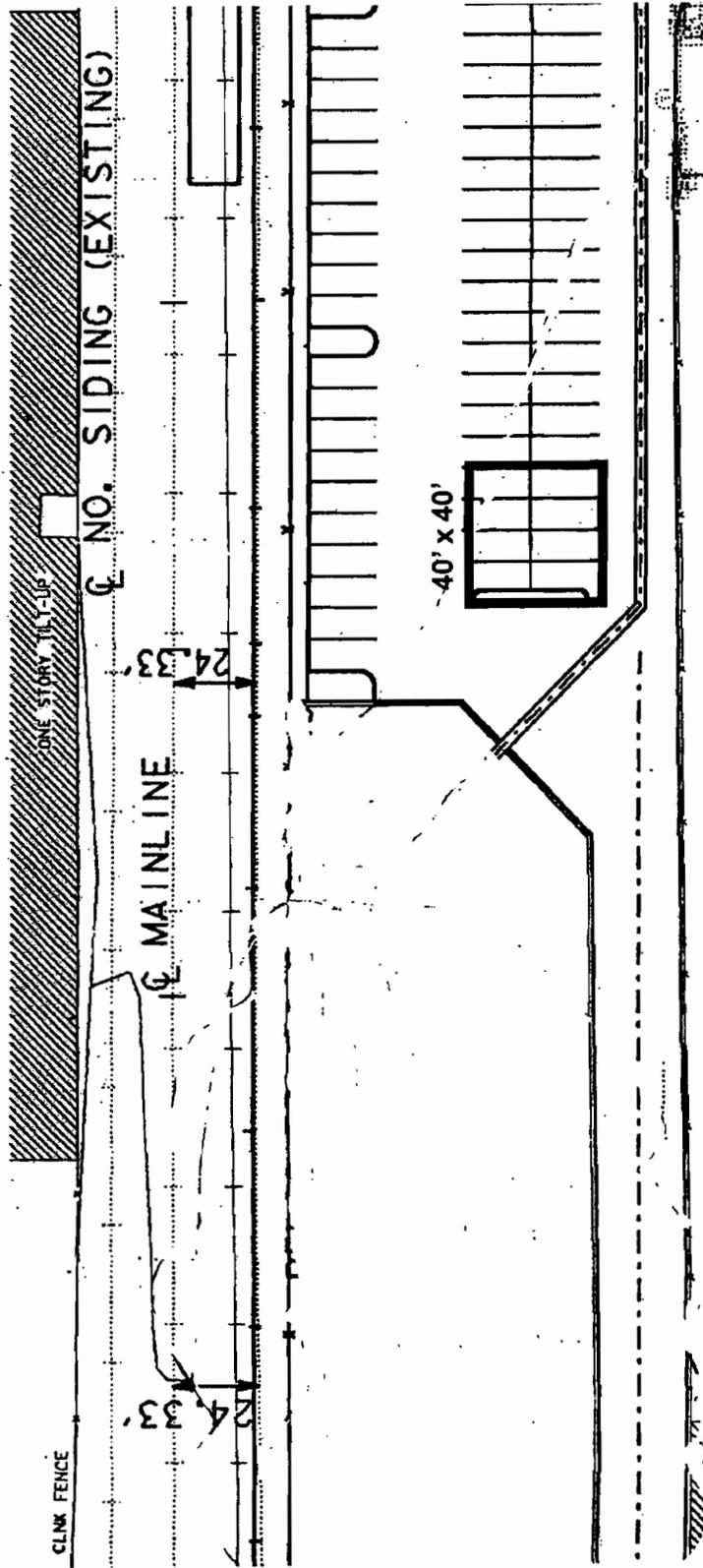
Acknowledgement:

Company Name

Bidders Signature

Print Name

**Attachment 1
Metrolink South Parking Lot
Staging Area**



PLAN 01 01 01

CVE Engineering, Inc.
P.O. Box 7208
Thousand Oaks, CA 91359
(805) 496-2282 ♦ (805) 496-1653 fax ♦ cve@gte.net

DATE: 3-25-11
CVE JOB #: 3268/3283
STAKE DATE: 3-25-11
CREW: Frank/Ed

CONTRACTORS ATTENTION

THE CONTRACTORS ARE CAUTIONED TO OBSERVE THE FOLLOWING RULE IN USING THE GRADE STAKES GIVEN BY THIS OFFICE. THREE CONSECUTIVE POINTS THAT ARE SHOWN TO BE ON THE SAME HORIZONTAL PLANE OR RATE OF SLOPE MUST BE USED IN COMMON IN ORDER THAT ANY VARIATION OUT OF A PERFECT STRAIGHT LINE OR GRADE MAY BE DETECTED. IF ANY SUCH DESCREPCANCY IS FOUND, THE SAME MUST BE REPORTED. OTHERWISE, THIS OFFICE WILL NOT BE RESPONSIBLE FOR ANY ERROR IN THE LINE OR GRADE OF THE FINISHED WORK.

Point	Station	Offset	Hub Grade	Grade	Cut	Fill	Remarks
101	1~	7°/5	512.68				
102	1+50		513.06				
103	2+00		513.42				
104	2+50		513.74				
105	3+00		514.26				
106	3+50		514.66				
107	4+00		515.66				GUY WIRE ±
113	4+24 ⁶⁷		515.87				Power Pole #4197929E
108	4+50		516.07				HUB
109	5+00		516.68				HUB
110	5+50		516.41				ON CURB
114	5+66 ⁵		516.72				POWER POLE #4297570E
111	6+00		516.34				
112	6+50		N/S				
115	6+75 ³⁵		516.88				JOIN EX. WALL



PACIFIC MATERIALS LABORATORY, INC.

January 26, 2011
Lab No. 34352-3
File No. 11-7964-3

City of Moorpark
c/o Ms. Jessica Sandifer
799 Moorpark Ave.
Moorpark, CA 93021

SUBJECT: Geotechnical Update Report
New Property Line Retaining Walls
Metrolink Station Retaining Wall
300 High Street, Moorpark, California

REFERENCE: *Plan Check No. - MP 2678, 300 High Street, Moorpark, CA*
Pacific Materials Laboratory, Inc. Geotechnical Exploration Report dated 2/12/07, Lab No. 32909-3

Dear Ms. Sandifer:

Pursuant to your request and authorization, *Pacific Materials Laboratory, Inc.* has updated the referenced geotechnical exploration report relative to planned property line retaining wall improvements to the Moorpark Metrolink Station located at 300 High Street, City of Moorpark, CA. In preparation of this report the following scope of work was performed:

SCOPE OF WORK

- 1) A review of the referenced *Pacific Materials Laboratory, Inc.* Geotechnical Exploration Report was performed relative to retaining wall design content.
- 2) A site visit by the undersigned geotechnical engineer was performed to observe the current improvement area relative to existing geotechnical conditions.
- 3) A review of the current Metrolink South wall extension plans prepared by CVE Engineering, Inc. Sheets 1,2 and 3 was performed.
- 4) A review of CVE Engineering, Inc. structural calculations (*Project 2010 3268 RW*) dated December 10, 2010 was performed relative to the planned property line three (3) foot high retaining wall with a five (5) foot high garden wall.
- 5) Retaining wall and 2007 CBC lateral design criteria was updated.
- 6) Preparation of this report.

UPDATED RETAINING WALL DESIGN CRITERIA

RETAINING WALLS:

When possible, all retaining walls should be fully drained using one of the backdrain methods depicted on "Retaining Wall Backdrain Details" included herein. If full height, full length effective drainage cannot be provided, retaining structures should be designed for *undrained* conditions. Non-yielding, or at-rest equivalent fluid pressures should be used as warranted by the structural setting, such as for basement walls. Appropriate retaining wall design criteria is presented in **Table-1** "Retaining Wall Design Criteria" below for retaining walls supported via foundations extending a minimum of 12 inches into firm material.

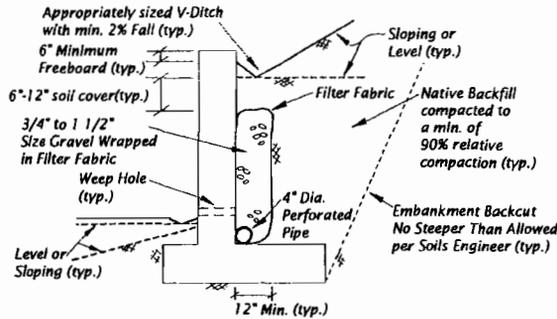
Design Condition	Equivalent Fluid Pressure				Coefficient of Sliding Friction	Allowable Bearing Capacity (i) (psf)
	Level Backfill (b,g,h)		Sloping Backfill (f,g,h)			
	Drained (d)	Undrained(e)	Drained (d)	Undrained(e)		
Active(a) (pcf)	30	65	48	86	0.43	1500
At-Rest(c) (pcf)	85	105	116	120	0.43	1500
Passive(j) (psf/ft)	377	377	100	100		

TABLE - 1 "Retaining Wall Design Criteria"

<p>Table Notes:</p> <ul style="list-style-type: none"> a. Yielding cantilevered engineered retaining wall design. b. Level cohesionless compacted (90%) backfill with a sand equivalent >30 and an expansion index=0 c. Non-yielding and/or restrained engineered retaining wall design. d. A drained condition requires a continuous 4" diameter perforated pipe for runs up to 150' long and a 6" diameter pipe for runs up to 500' long be placed (<i>perforations down</i>) along the intersection of the retaining wall footing and stem prior to placing backfill. The drain shall be placed to achieve a minimum positive flow gradient of 1% normal to the run of the wall. The retaining wall backdrain system shall comply with one of the methods prescribed on "Retaining Wall Backdrain Details" included herein. e. Undrained cohesionless backfill design values take into account water accumulation in the backfill. f. Sloping cohesionless backfill up to a maximum 2:1 slope repose. Appropriate lateral pressure for steeper sloping surcharge and/or geologic conditions provided by <i>Pacific Materials Laboratory, Inc.</i> specific geotechnical conditions review. g. Wall backfill shall conform with options 1, 2, 3A or 3B as depicted on "Retaining Wall Backdrain Details": Sand backfill shall consist of clean sand conforming to SSPWC 300-3.5.2 "Pervious Backfill". Native soil backfill should be placed in lifts of 6 inches or less and mechanically compacted at optimum moisture content to 90% relative compaction. See "Retaining Wall Backdrain Details" for more detail. h. All retaining wall footing excavations, drains, materials and backfill activities should be observed, tested and approved by <i>Pacific Materials Laboratory, Inc.</i> during the construction process. i. Retaining wall footings should extend not less than 12" below the lowest adjacent ground surface, to the minimum depth required to satisfy foundation depths based upon the CBC Expansion Index (Table-19A) or to the depth required to satisfy CBC setback requirements (CBC Figure 18-1.2), <u>whichever is greater</u>. j. When combining the total lateral resistant forces of friction, passive pressure and/or mechanical anchorage the passive pressure shall be reduced by <u>one-third</u>. In addition, lateral resistance should <u>only</u> be applied when the designer is assured that the soil in contact with the embedded structure will remain in contact and provide resistance at all times.

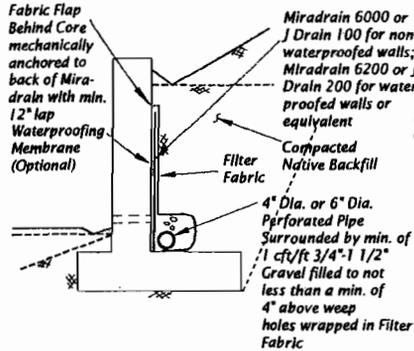
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Option 1: Gravel Wrapped in Filter Fabric

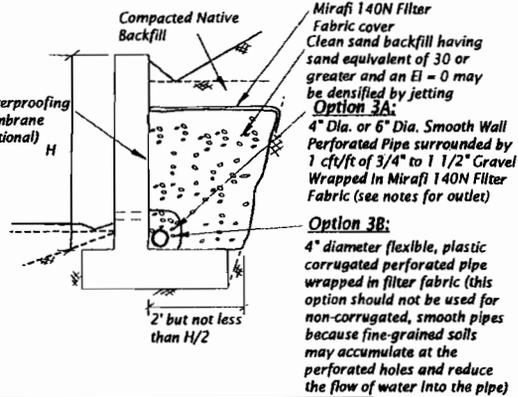


Proper Outlet(s) Should be Provided for all Gravel and Pipe Backdrains
See Notes Below for Detail

Option 2: Geotextile Backdrain



Option 3A & 3B: Clean Sand Backfill



Notes:

- Pipe should conform to ASTM D1527 Acrylonitrile Butadiene Styrene (ABS) SDR35 or ASTM D1785 Polyvinyl Chloride plastic (PVC), Schedule 40, Armco A2000 PVC, or approved equivalent. Pipe should be installed perforations down.
- Filter fabric should be Mirafi 140N, 140NS, Supac 4NP, Amoco 4545, Trevira 1114, or approved equivalent. All laps shall be a min. of 24".
- All drain piping should positively drain @ not less than 1 percent.
- Outlets for gravel heel drains should connect to solid 4"-diameter pipe. Proper sealing should be provided at the pipe insertion enabling water to run from the gravel portion into rather than outside the pipe.
- Waterproofing membrane may be required for task specific retaining wall such as a stucco or basement wall.
- Weepholes should be 2" minimum diameter and provided at 15' centers throughout the length of the wall. Caution: weep hole cores should be constructed before filter fabric placement behind the wall. When exposure is permitted, weep hole should be located at ~3" above finished grade. If exposure does not permit (such as for a wall adjacent to a sidewalk/curb), a pipe under the sidewalk to discharge through the curb face or equivalent should be provided. Open vertical masonry joints (i.e., omit mortar from joints of first course above finished grade) may not be substituted for weepholes. Screening such as a filter fabric should be provided behind for weepholes to prevent earth materials from piping out.

Retaining Wall Backdrain Details

UPDATED LATERAL DESIGN CRITERIA**LATERAL BUILDING DESIGN LOADS**

As required by Section 1613 of the 2007 CBC "...Every structure and portion thereof, including nonstructural components that are permanently attached to structures and their supports and attachments, shall be designed and constructed to resist the effects of earthquake motions in accordance with ASCE 7..."

Accordingly, based upon the results of subsurface exploration(s) conducted by *Pacific Materials Laboratory, Inc.* to date, the ASCE 7 compliant geotechnical lateral design criteria included in **Table-** below has been assigned to the subject project for use in lateral design by the project structural engineer.

SEISMIC DESIGN CATEGORY	D	CBC SECTION 1613.5.6
SITE CLASS	D	CBC TABLE 1613.5.2
S _s	1.808	CBC FIGURE 1613.5(3)
S ₁	0.712	CBC FIGURE 1613.5(4)
F _a	1.0	CBC TABLE 1613.5.3(1)
F _v	1.5	CBC FIGURE 1613.5.3(2)
S _{DS}	1.205	$2/3 * S_s * F_a$
S _{D1}	0.702	$2/3 * S_1 * F_v$
T ₀	0.117	$0.2 * S_{D1} / S_{DS}$
T _s	0.583	S_{D1} / S_{DS}

TABLE - 2007 CBC SEISMIC DESIGN PARAMETERS

RETAINING WALL CONSTRUCTION OBSERVATION RECOMMENDATIONS

It is our understanding that a property line CMU combination retaining wall and property line fence is being planned as part of the Moorpark Station - Metrolink improvements. Minor onsite excavation and preparatory rough grading activity is anticipated in preparation of a geotechnically retaining wall foundation area.

The following recommendations are based solely upon the afore described mode of construction. The project site, rough grading, foundation and landscape plans should be submitted to *Pacific Materials Laboratory, Inc.*, for geotechnical content review and written comment prior to construction. Any proposed changes in construction mode should also be reviewed by *Pacific Materials Laboratory, Inc.*, and as required, recommendations modified in writing prior to construction.

- 1) All existing trees and/or large shrubs (*if any*) residing within the limits of the proposed grading activity should be removed and careful attention should be given to completely removing all root structures. Once cleared the cavity should be observed and approved by a representative of *Pacific Materials Laboratory, Inc.* When approved, the areas should be scarified an additional 6 inches in depth, uniformly brought to optimum moisture content and compacted to 90% relative compaction.
- 2) Existing surface soils underlying the proposed retaining wall footing appear to be variably compact, to prevent significant differential movement native soils should be structurally treated for long-term support of the retaining wall system. Treatment should include excavation to recommend footing depths plus an additional 12" in depth. The exposed soils should then be scarified a minimum of 6 inches in depth, uniformly brought to near optimum moisture content and compacted to a minimum of 90% relative compaction. The removed soils should then be replaced structurally up to finished footing elevations in 2" to 3" lifts, at near optimum moisture content and compacted to a minimum of 90% relative compaction. Removals maybe limited to the footing width. The footing over-excavation and recompaction process should be observed and tested for compliance during construction by *Pacific Materials Laboratory, Inc.*

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- 3) Actual site conditions may vary from conditions interpreted from this study. Therefore, the final limits/recommendations pertaining to the rough grading activity will be determined by a representative of *Pacific Materials Laboratory, Inc.* during grading progress.
- 4) Artificial fill (*if any*) should be placed in *horizontal* layers of less than 2" to 3" inch lifts, brought to near optimum moisture content and *uniformly* compacted to a minimum of 90% relative compaction prior to placing the next lift of artificial fill.
- 5) The compaction standard should be performed in accordance with ASTM D1557 method of compaction. Compaction tests should be performed in accordance with ASTM D1556 (*sandcone method*) or ASTM D3017 (*nuclear method*).
- 6) A careful search should be made for subsurface debris, abandoned utilities, water wells, septic tanks, etc., during the grading activity. All subsurface structures encountered should be brought to the attention of *Pacific Materials Laboratory, Inc.*, for final disposition.
- 7) Temporary excavations without adjacent surcharge may be excavated assuming 0.5(H):1(V) repose to a *maximum* height of 5'. Portions of temporary excavations exceeding 5' in height should be laid back at a *maximum* repose of 1(H):1(V). Vertical excavations are not considered appropriate. Steeper temporary backcut repose may be provided by employing an engineered shoring system designed to conform to geotechnical criteria contained in the Soils Exploration Report. **Temporary excavations adjacent to existing surcharge locations, foundations or hardscapes should not be made until adjacent structures have been structurally supported by an engineered system.**
- 8) *Retaining wall backfill* should consist of cohesionless free draining, low sulfate material and should be placed in lifts of 3" to 6" or less at near optimum moisture content and mechanically compacted to not less than 90% relative compaction. This process should be repeated until backfill has been placed up to finished grade. All retaining wall drainage elements and backfill should be periodically observed and randomly tested for compliance by *Pacific Materials Laboratory, Inc.* during the backfill activity.
- 9) Should *import material* be needed to complete planned rough grading activities, the materials should be prescreened by *Pacific Materials Laboratory, Inc.* prior to import to the subject property. Prescreening of import materials should conclude the material is of similar soil type(s) and expansion index(es) to the onsite soils.

Please Note: In order to provide timely prescreening of import materials initially only limited soil mechanics testing will be performed. Additional comprehensive testing and analysis will be performed on representative samples of import soils and/or blends after they have been delivered, placed and compacted on the subject project. Accordingly, *Pacific Materials Laboratory, Inc.* reserves the right to modify foundation design recommendations based upon "as-constructed" conditions.

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DRAINAGE SYSTEMS

- 1 The minimum provisions of the 2007 Edition of the California Building Code (*CBC*), Division I, Sections 1804.7, 1806.5.5 and Division II, Sections 1812.1 and 1812.2 should be incorporated into plans and construction unless superseded by information contained in this section.
- 2 Positive drainage should be established during construction. This is especially important when construction takes place during the rainy season.
- 3 Where practical, landscape planters should be eliminated immediate to foundation systems. All landscape areas should be designed to positively drain a minimum of 2% away from the retaining wall system and ultimately toward the street or other approved drainage area. All landscaping should drain away from all primary and/or secondary structures.
- 4 Positive drainage is defined as:
 - Not less than 4% extending a minimum distance of 6 feet away from all foundation systems where landscaping is immediate to the structure.
 - Hardscape or drive areas immediate to foundation systems drained by sheet flow and/or earthen swale (*without deck drains*) should provide a minimum of 2% positive drainage extending a minimum distance of 6 feet away from all foundation systems along with maintaining a minimum 2% positive drainage gradient to the street or other approved drainage discharge area.
 - Hardscape or drives employing redundant deck drains may be planned at a minimum 1% positive drainage gradient away from foundation systems, provided deck drain flow line maintain a minimum 2% gradient and the number and size of the deck drains provided are more than adequate to prevent ponding during severe weather.

PLAN REVIEW AND INSPECTIONS**Geotechnical Review:**

While *Pacific Materials Laboratory, Inc.* makes every effort to anticipate needs, often times it is necessary to respond to specific issues based upon building official geotechnical reviews of development plans and geotechnical reports. Preparation of follow-up geotechnical response reports "are not normally included within the scope of our contracted works or agreement". The cost associated with follow-up geotechnical report(s) will be based upon our current *Schedule of Laboratory Fees*. Normally responses include registered engineers, staff engineers and clerical hour(s). However, in some cases additional laboratory and/or field testing may be required. Please feel free to contact our office if necessary for details.

Additional geotechnical services are also normally associated with the final review of plans as well as the construction phase of development. The costs associated with these services are not included within the scope of contracted services. Here again, all additional services will be invoiced in accordance with our laboratory schedule fees. Following is a listing of recommended follow-up geotechnical issues.

- Complete sets of final *grading, site, foundation* and *landscape* plans should be submitted to *Pacific Materials Laboratory, Inc.* for geotechnical content review and written comment. *Pacific Materials Laboratory, Inc.* reserves the right to recommend plan changes and to provide additional recommendations at that time if warranted by the review(s).
- At a minimum, a representative of *Pacific Materials Laboratory, Inc.* should be requested to observe the following phases of construction. *Pacific Materials Laboratory, Inc.*

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reserves the right to modify (*increase or decrease*) the scope of observations and testing as conditions dictate. *Pacific Materials Laboratory, Inc.* further reserves the right to modify geotechnical recommendations commensurate with the new information, facts, observations or findings as conditions mandate. Supplemental geotechnical recommendations may prove warranted based upon exposure and interpretation of actual conditions during grading activities.

- Tree and large shrub removal (*if any*)
- Verify vegetation and debris removal (*if any*)
- Provide grading observation and periodic random compaction testing during the rough grading process
- Foundation excavation
- Critical drainage system construction observation
- *Periodic observation and random compaction testing of retaining wall backfill*
- Finished surface drainage observation

- Foundation excavation observations should be made prior to placing reinforcing steel, forms or concrete. It is the responsibility of the owner or the owners representative to coordinate construction timing and to notify *Pacific Materials Laboratory, Inc.* a minimum of 48 hours in advance of the start of or of required observations and testing. Failure to coordinate geotechnical observations and follow-up testing services at the proper construction sequence could result in increased testing costs, construction delays or both.

CLOSURE

As discussed herein, this report is issued and made for the sole use and benefit of the client. *Pacific Materials Laboratory, Inc.* affirms that contents of this report remain applicable for a period of not greater than 12 months from the date of this report. Reports more than 12 months old require written supplemental updating by *Pacific Materials Laboratory, Inc.* to compliment prevailing specifications, building codes and standards of practice.

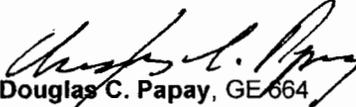
This report concludes the current contracted agreement between *Pacific Materials Laboratory, Inc.* and the client. The recommendations contained herein are based upon the assumption that *Pacific Materials Laboratory, Inc.* will be requested to provide the necessary testing and observation services which are recommended during rough grading, fine grading and construction. Additional services and associated fees will be necessary to verify the actual soil conditions encountered and to affirm that the plans and construction are consistent with the intent of the recommendations provided herein

A current Schedule of Fees should have already been provided to you prior to the commencement of current services. The Schedule of Fees will be the basis of all further invoices and will be fully itemized as a service to you. If you have not received a current Schedule of Fees it is incumbent to request one at your earliest convenience. If additional geotechnical services are performed by others, only the technical correctness of the actual tests performed can be attested to. Should a separate geotechnical firm assume this project, *Pacific Materials Laboratory, Inc.* will not be responsible for interpretations, opinions, conclusions nor recommendations made by others with regard to fill selection, fill placement, compaction, foundation, slab or hardscape support or any summary of findings, conclusion, recommendation or opinion presented in this report.

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Thank you for allowing *Pacific Materials Laboratory, Inc.* to be of service. If we may be of further service regarding this or other geotechnical issues, please do not hesitate to call (805) 482-9801, fax (805) 445-6551 or write.

Respectfully Submitted,
PACIFIC MATERIALS LABORATORY, INC.


Douglas C. Papay, GE 664
President

DGP:dkp
cc: Addressee (5)



PACIFIC MATERIALS LABORATORY, INC.

PACIFIC MATERIALS LABORATORY, INC.



**GEOTECHNICAL EXPLORATION REPORT
Six (6) New Light/Digital Camera Poles
Moorpark Metrolink Parking Area
300 High Street
Moorpark, CA**

**CLIENT
City of Moorpark
c/o Shaun Kroes
Management Analyst
799 Moorpark Avenue
Moorpark, CA 93021**

**February 12, 2007
Lab No. 32909-3
File No. 07-7964-3**

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ATTACHMENTS:

- REFERENCES CITED
- APPENDIX A: Site Sketch
- APPENDIX B: Log of Borings
- APPENDIX C: Field/Laboratory Test Data
- APPENDIX D: Engineering Calculations

I. INTRODUCTION

Pursuant to your request and authorization *Pacific Materials Laboratory, Inc.* has been completed a supplemental geotechnical exploration in consideration of six (6) new Metrolink station digital security lighting and camera poles spaced within the existing passenger parking area of the Moorpark, CA Metrolink Station located at 300 High Street in the City of Moorpark, Ca. The existing parking areas straddle both sides of High Street and are currently fully developed. Existing improvements include asphalt concrete parking, drives, concrete walkways, planters, landscaping and irrigation systems. The light pole improvement zones are within relatively flat areas. Apparent regional drainage trending west to southwest at 1-2%.

It is the purpose of this exploration to provide sufficient data concerning the characteristics of the soils in the supporting soil mantle to enable a suitable foundation design intended to support the proposed lighting poles. The scope of this exploration does not include analysis of existing cut or artificial fill slopes, proposed cut slopes, geologic structures, or associated geologic features such as faults, fractures, landslides, or potential geologic movement. This exploration was conducted in accordance with presently accepted soils engineering procedures consistent with the scope of the proposed development, and no warranty or uniformity of soil conditions between borings is implied.

II. SCOPE OF WORK

The scope of work performed in preparation of this report included:

- Excavation, logging and sampling of two (2) truck mounted hollow stem flight auger borings
- Execution of programmed field and laboratory soil mechanics tests
- Review of data, synthesis, evaluation and preparation of this report

¹ See *References Cited* herein for a complete listing of referenced reports.

III. APPENDICES

Appendix A: Site Sketch: A sketch of the subject building pad area was prepared based upon a client supplied site plan. The plan was enhanced in the field based on visual observations and limited measurements using a 100' cloth tape. The sketch is simplistic, however, it does include applicable site configuration, approximate structure locations, test locations and other pertinent information. The sketch is included as **Enclosure A**.

Appendix B: Log of Borings: Test borings were logged in the field. Laboratory test data were then added. The profiles were then interpreted by a registered engineer, finalized and included herein as **Enclosures B-1 and B-2**.

Appendix C: Field/Laboratory Test Data: Field and laboratory test data performed during this study are included in this appendix. Test data include maximum density optimum moisture determination, expansion index, relative compaction, graphically displayed insitu consolidation, a graphical interpretation of direct shear testing sieve and hydrometer analysis and soil corrosive series test data.

Appendix D: Engineering Calculations: Calculations provided herein include allowable shallow footing bearing capacities, active and passive soil pressures and coefficient of friction determination.

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IV. VICINITY MAP

To aid and simplify review of this report the subject property has been approximately located on a copy of a "Google Map" Map data 2007 NAVTEQ™. The subject property is indicated by an arrow incorporating the word "SITE" and pointing to the property.

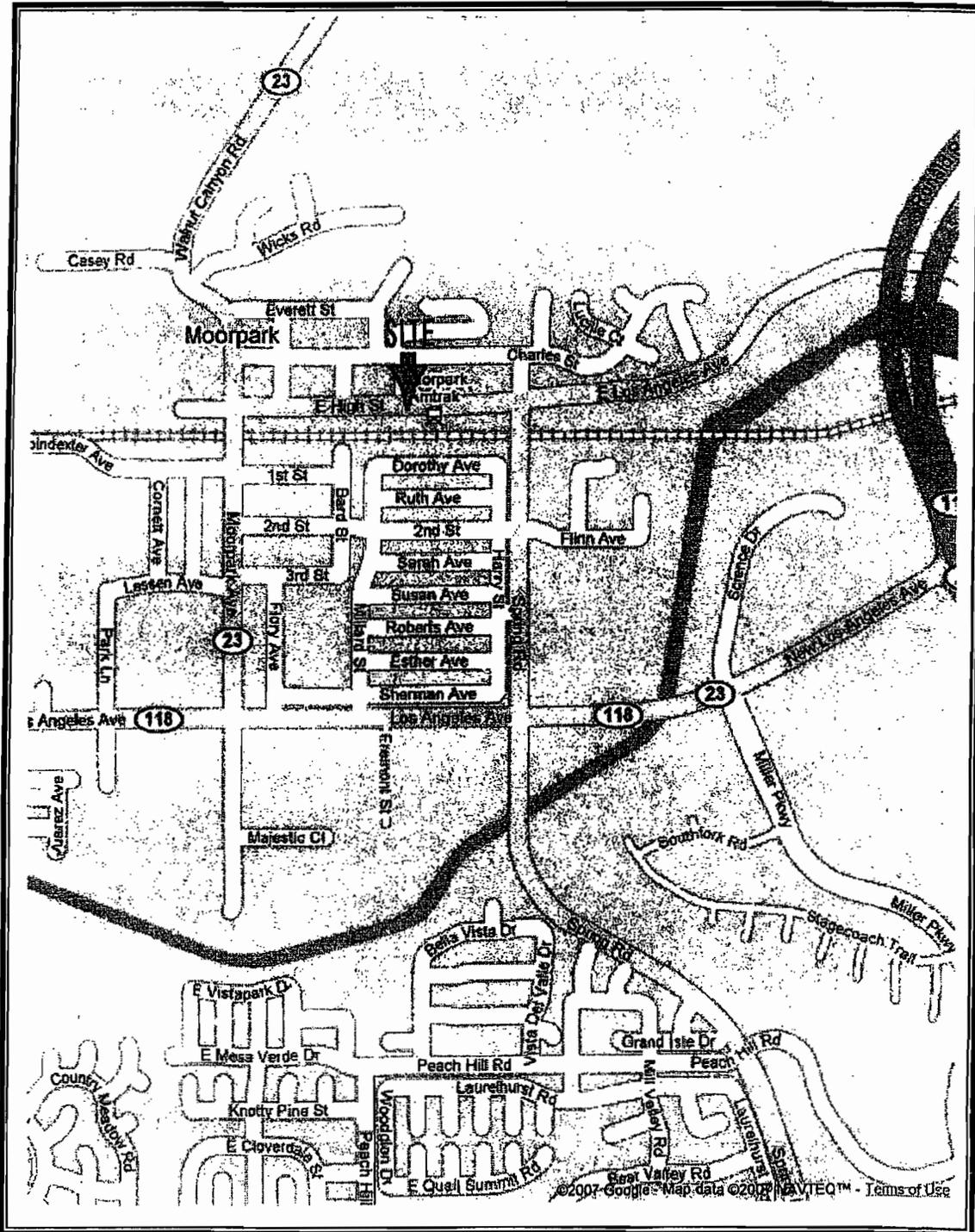


Figure - 1: Vicinity Map

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V. SUBSURFACE EXPLORATION

The engineering properties of subsurface soils which are anticipated to be of primary influence to the subject development were explored by a total of two (2) truck mounted helical auger borings excavated to a maximum depth of 25 feet below the present ground surface. The drilling method employed is consistent with ASTM D1452-80 procedures.

During excavation insitu and bulk soil samples were obtained at regular programmed intervals. The purpose of sampling is for engineering identification and laboratory testing including but not necessarily limited to:

- (ASTM D 2488) Description and identification of soils
- (ASTM D 2487) Classification of soils for engineering purposes
- (ASTM D 1586) Penetration test and split-barrel sampling of soils
- (ASTM D 421) Dry preparation of soil samples
- (ASTM D 2216) Moisture content determination
- (ASTM D 1556) Density and unit weight (sandcone method)
- (ASTM D 1557) Laboratory compaction characteristics of soil
- (ASTM D 422) Mechanical and hydrometer analysis
- (UBC Volume 3, Section 18-2) Expansion potential
- (CBC Table 18-1-B) Expansion classification
- (ASTM D 2435) One dimensional consolidation
- (ASTM D 3080) Direct shear test of soils
- (EPA 300.0) Soluble sulfates in soils
- (CA 417) Soluble Sulfates
- (CA 422) Soluble Chloride
- (CA 643) Resistivity

Soil samples referred herein as insitu, or undisturbed, were obtained in accordance with ASTM D3550 "Ring-Lined Barrel Sampling of Soils". The method uses a 140 pound, in hole sampling hammer free falling, using a mobile Safe-T-Driver wireline drum hoist fitted with a manual release. The hammer falls 30 inches on a 2.5" I.D. x 18" long split barrel sampler fitted with continuous internal brass liners.

Methods presently available for recovery of samples termed insitu, result in some degree of disturbance to the insitu nature of the soil samples. The careful management of these samples, however, provide a useful tool for engineering evaluation of subsurface soil performance. Additional sampling included *Standard Penetration Test(s)* SPT per 1999 ASTM D1586 to aid in determining insitu soil strength, evaluation of the potential of site liquefaction and dynamic settlement. The sampler consists of an 18" long, 1.5" I.D. diameter sampler, with liners, driven by the same 140 lb. hammer described.

Where they appear, blow counts from the 2.5" I.D. sampler were adjusted to equivalent Standard Penetration Test (SPT) blow counts employing procedures by Karol, R.H. (*Soils and Soils Engineering, Prentice Hall, 1964*). The resulting factor for adjustment of the field obtained blow counts to N_{SPT} equivalent blow counts is ~0.60. The adjusted blow count data from the 2.5" I.D. sampler as well as any SPT blow counts (*from an actual 1.5" I.D. SPT sampler*) are each normalized and corrected in accordance with the procedures included in "Liquefaction Resistance of Soils: Summary Report from the 1996 NCEER and 1998 NCEER/NSF Workshop on Evaluation of Liquefaction Resistance of Soils, Journal of Geotechnical and GeoEnvironmental Engineering dated April, 2001 (*Youd, T.L. & Idriss, I.M.*) employing an energy ratio of 1.0. The field blow counts from the 2.5" I.D. samples are denoted on the boring logs as N_{eq} while the normalized SPT blow counts are denoted as N_{spt} .

VI. LIMITATIONS

The data findings and design recommendations provided herein are intended as an instrument of professional service. The scope of work performed in preparation of this report is consistent with the work prescribed by the client and included within *Pacific Materials Laboratory, Inc.* cost proposal and agreement formally executed prior to the start of work on this report. *Pacific Materials Laboratory, Inc.* authorizes use of this document as needed, by the client, his professional representatives or consultants as necessary to further planning, development and construction of the specific project defined, and limited to, the subject of this report. This document is the exclusive property of *Pacific Materials Laboratory, Inc.*, and is not to be used in whole or part for any other use except as defined herein without prior written authorization by *Pacific Materials Laboratory, Inc.*

All building sites are subject to elements of risk which cannot be wholly identified and/or entirely eliminated. Furthermore, building sites in Southern California are subject to many different types of geotechnical hazard potentials including but not limited to the effects of water infiltration, erosion, inappropriate drainage, static total settlement, static differential settlement, expansive soil movement, chemical alteration, seismic shaking, seismic-induced ground and slope deformation, seismic-induced settlement, liquefaction, hydroconsolidation, mud flow, and landsliding. Some, but not all the listed potential geotechnical hazards may be evaluated within the scope of this report. Accordingly, the subject project may be at *risk* from some geotechnical hazard as of yet not evaluated.

Acceptable long term performance is highly dependent on the property owner properly maintaining the site (such as repair and maintenance of drainage facilities, slopes, etc.) and by immediately correcting any and all deficiencies discovered throughout stewardship of the property. It is not possible to completely eliminate all hazards or inherent risks. Even with a thorough subsurface exploration and testing program, significant insitu geotechnical variability and latent defects between test locations may exist. Latent defects can be concealed by earth materials, deposition, geologic history and preexisting site improvements. Such defects (if any), are beyond the scope of this evaluation. Accordingly, no warranty, expressed or implied, is made or intended in connection with findings, data or recommendations included in this report (or by any other oral or written statement) other than the services performed which were provided within the limits prescribed by and agreed to by the client. *Pacific Materials Laboratory, Inc.* warrants that the services performed in preparation of this report are consistent with the limits prescribed by the client and with generally accepted thoroughness and competence of the geotechnical and geological engineering profession.

The recommendations presented herein should be considered applicable for a period of not greater than 12 months from the date of this document. Reports older than 12 months should not be relied upon for design and/or plan check without a currently dated (not greater than 12 months) site specific soils engineering update report.

It is the responsibility of the client, or of his representative, to ensure that the information and geotechnical recommendations provided herein are conveyed to the project architect(s), engineer(s), contractor(s) and/or building officials and that the intent and spirit of these geotechnical recommendations are incorporated into plans and specifications, and that these recommendations are in turn properly implemented in the field during construction.

Furthermore, it is the sole responsibility of the contractor(s) to employ all necessary safety procedures during construction. *Pacific Materials Laboratory, Inc.* cannot be held responsible for the safety of other than our own personnel on or immediate to the site. The contractor(s) should immediately notify the owner in writing if he considers any of the recommended actions discussed herein to be unsafe. The project contractor(s) should not start or continue any work or service that is considered to be at risk or unsafe by any effected party.

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VII. SUMMARY OF FINDINGS

- 7.1 No free ground water was encountered during excavation of the test borings to a depth of 25 feet below the present ground surface. The subsurface soils encountered ranged from damp to moist.
- 7.2 The near surface soils encountered are classified as nonexpansive gravelly silty sands ($EI=3$).
- 7.3 The results of consolidation tests indicate *insitu* near surface soils (0-5') are *slightly* sensitive to collapse when wetted (hydroconsolidation), but does not appear to pose a significant risk to the planned improvements.
- 7.4 During the course of the subsurface exploration, zones containing varying amounts of existing *artificial fill soils* were identified test boring (B-1 0-~8.5 feet) no artificial fill was identified in test boring B-2. The artificial fill encountered appeared moderately firm to very firm, relatively dense and considered suitable to support the planned improvements.
- 7.5 **Based upon subsurface soils engineering data obtained, tested and reviewed during this exploration, the site is considered suitable without rough grading to support the planned lighting improvements when the pole foundations are geotechnically prepared as recommended herein.**

VIII. ROADWAY LIGHTING STANDARDS DESIGN

- 8.1 All lighting standards should be designed as isolated flagpole type footings employing unconstrained pier footings (*flag pole design*) in accordance with the 2001 California Building Code (CBC), Section 1806.8. All foundations and structural members should be designed by a California registered civil or structural engineer while, at a minimum, incorporating the following design criteria.
- a) All pier footings should be a minimum of 24" in diameter or larger as necessary by structural evaluation.
 - b) Pier footings should be embedded to not less than 8' below the lowest (*downslope*) grade.
 - c) Allowable lateral design should be determined in accordance with the 2001 CBC, Section 1806.8.2.1 assuming a "*nonconstrained*" condition where the allowable lateral soil bearing pressure coefficient S_1 of 377 lbs/sf/ft of embedment and a coefficient of Sliding = .43 is used.
 - d) Vertical design should conform to the 2001 CBC Section 1806.8 where allowable foundation pressure equals 1400 psf.
 - e) The indicated values refer to total dead plus live load values for cast in place drilled concrete piers. Values may be increased 1/3 when considering wind or seismic loads. The weight of concrete footings may be ignored in evaluation.
 - f) All flagpole footings should be fully reinforced throughout their length per the minimum seismic Zone IV requirements of the 2001 CBC.
 - g) The values presented are based upon lateral development. The compressive and tensile structural capacities of the footings should be verified by structural design.
- 8.2 The final foundation plans and details should be submitted to *Pacific Materials Laboratory, Inc.* for review and approval prior to the commencement of construction.
- 8.3 All footing excavations should be observed and approved by *Pacific Materials Laboratory, Inc.* after excavation and prior to placing reinforcing steel or concrete.

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- 8.4 Although not anticipated at this site pier excavations wherein free water is encountered (*if any*) should be pumped and maintained in a drained condition until concrete has been placed. The project contractor should provide protection, casing and/or shoring as necessary to assure the excavations will remain open and of suitable dimension until concrete

IX. LATERAL BUILDING DESIGN

- 9.1 The subject site is located in an area subject to strong ground-shaking from earthquakes. Although the subject report is limited in scope and does not include a thorough site specific seismicity evaluation, numerous faults considered to be capable of producing significant seismic shaking are located near the subject property. Designing the proposed structures to be earthquake-proof is generally considered to be impractical owing to the cost limitations typically associated with private projects. Significant damage to structures thus may be unavoidable during large earthquakes. The proposed structures, with proper design, however should be capable of resisting structural collapse and thereby provide reasonable protection from serious injury, catastrophic property damage, and loss of life.
- 9.2 The proposed structure shall be designed *at a minimum* in accordance with design procedures set forth in Sections 1626 through 1636 of the 2001 *California Building Code (CBC)*. The 2001 CBC prescribes procedures for earthquake resistant design which include considerations for seismic zoning, site characteristics, occupancy, configuration, structural system and height. *Table 1 - CBC Minimum Earthquake Resistance Design Parameters* herein is based on a review of site conditions relative to seismic zones, soil profile type and the proximity of the site to qualified potential seismic sources. The nearby Simi-Santa Rosa fault is considered to be the most significant potential seismic sources controlling seismic design at the subject site. The set of seismic parameters from Table 1 shall govern as the minimum CBC prescribed building lateral design criteria. ***The minimum earthquake design procedures given by Sections 1626 through 1636 of the 2001 CBC are intended to safeguard against major structural damage and loss of life, not to limit damage or maintain function.*** Although these minimum earthquake design procedures are commonly adopted by the industry these criteria may not be adequate for certain structures. Furthermore, the minimum code design procedures may not provide an *acceptable* level of protection against significant cosmetic damage and serious economic loss. A significantly **higher** than code allowed lateral design (C_a factor) parameter consistent with high ground accelerations recorded during the January 17, 1994 Northridge earthquake (i.e. 0.60 to 1.0) would be necessary to further reduce the economic loss risk. However, because these assigned parameters are much higher than those given in the *California Building Code* structural engineers often regard them as impractical for use in structural design. **Ultimately, it is the responsibility of the project owner, working in conjunction with his structural engineer, to decide what level of project design (i.e. project cost) and associated risk are acceptable for use in design of the proposed structure. The use of lesser earthquake design values may result in an increased risk of structural and cosmetic damage.**

The 2001 California Building Code (CBC) seismic coefficients for the project site are presented in **Table 1** below.

Seismic Zone - Figure 16-2	4
Seismic Zone Factor (Z) - Table 16-I	0.40
Soil Profile Type - Table 16-J	S_D
Seismic Coefficient C_a - Table 16-Q	$0.44N_a$
Seismic Coefficient C_v - Table 16-R	$0.64N_v$
Near Source Factor N_a - Table 16-S	1.3
Near Source Factor N_v - Table 16-T	1.6
Seismic Source Type - Table 16-U	B

Table 1 - 2001 CBC Seismic Coefficients

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X. SOILS CORROSIVE TEST SERIES

Common chemicals found in soil, when combined with water, can lead to adverse chemical reactions impacting hardened concrete, reinforcement and buried metallic piping overtime. Accordingly, a preliminary series of chemical tests have been completed on the most common, near surface, soil type to assess the threshold of corrosion risk at this site. The test results are included on **Enclosure C** herein. As a practical matter each soil types in contact with hardened concrete and/or buried ferrous metal piping should be tested for corrosive risk. A short discussion of each chemical test performed and its potential impact on the subject project follows:

pH- Acidic water (such as acid rain -pH 4.0-4.5) are capable of etching concrete surfaces. Prolonged contact with strong acids (such as found in some soils -pH < 4.0) warrant special concrete mix designs and other precautions. Typically concrete with a low water to cement ratio (0.45-0.50) coupled with lean cement content and low permeability are more resistant to acid attack.

Sulfates (SO₄) Chemical reaction between hydrated cement and sulfate ions commonly migrating from exterior sources (such as sulfates carried by way of water and/or water vapor migration from soil into hardened concrete) can produce expansive forces within hardened concrete. Over time this reaction could result in a progressive loss of strength, progressive loss of concrete mass and ultimately in concrete failure. As a result of this potential risk the California Building Code (CBC) recommends specialized concrete mix designs to improve concrete performance when subject to sulfate attack.

CBC Table 19A-A-4 has been reprinted herein and should be applied to all concrete in contact with soil and/or water. To be conservative it is suggested that all concrete be designed based assuming a "severe sulfate exposure" regardless of the current sulfate risk level, indicated by Preliminary testing.

Sulfate Exposure	Water-Soluble Sulfate (SO ₄) in soil, percentage by weight	Sulfate (SO ₄) in water ppm	Cement Type	Maximum Water-Cementitious materials ratio, by weight, normal-weight, Aggregate Concrete	Minimum f' c' Normal-weight and Lightweight Aggregate Concrete psi x 0.00689 for MPa
Negligible	0.00-0.10	0-150	-----	-----	-----
Moderate ²	0.10-0.20	150-1,500	II, IP (MS), IS (MS)	0.5	4,000
Severe	0.20-2.00	1,500-10,000	V	0.45	4,500
Very Severe	Over 2.00	Over 10,000	V plus pozzolan ³	0.45	4,500

¹ A lower water-cementitious materials ratio or higher strength may be required for low permeability or for protection against corrosion of embedded items or freezing and thawing (Table 19A-A-2).

² Seawater

³ Pozzolan that has been determined by test or service record to improve sulfate resistance when used in concrete containing Type V cement.

Chlorides- Overtime a concentration of soluble chloride can adversely impact reinforcing steel, prestressing cables or other ferrous materials embedded in concrete. When soluble chloride concentrations of 15,000 ppm or more are found in water and/or soils special mitigation measures are needed to better protect ferrous metals within the concrete.

Resistivity- Electrical resistivity is a common cause of deterioration of ferrous metals in contact with soil (such as buried metal piping). Generally speaking all soils are, at the very least, mildly corrosive and as a result will shorten the life of buried ferrous metal piping, fence posts, etc. Wherever possible plastic, PVC or ABS piping should be employed to mitigate this risk.

If ferrous metal piping is employed mitigation is recommended when the soil resistivity is less than 10,000Ohm-Cm (a moderately corrosive condition). The following table has been provided as a general guideline for use in determination of the soil resistivity risk.

Soil Resistivity, Ohm-Cm	Corrosivity Category
0-1,000	Severely Corrosive
1,000-2,000	Corrosive
2,000-10,000	Moderately Corrosive
Over 10,000	Mildly Corrosive

Table 2: Soil Corrosion Potential

XI. DRAINAGE SYSTEMS

11.1 The minimum provisions of the 2001 Edition of the California Building Code (CBC), Division I, Sections 1804.7, 1806.5.5 and Division II, Sections 1812.1 and 1812.2 should be incorporated into plans and construction unless superseded by information contained in this section.

11.2 All primary and secondary structures should be fitted with gutters and downspouts which discharge directly into solvent-welded water tight subsurface piping. Redundant use of catch basins, yard drains with solvent-welded, water tight piping should also be provided to capture landscape/hardscape sheetflow or discharge water. All drainage piping should be discharged directly to the street or other approved drainage discharge area.

11.3 Positive drainage should be established during construction. This is especially important when construction takes place during the rainy season.

11.4 Where practical, landscape planters should be eliminated immediate to foundation systems. All landscape areas should be designed to positively drain a minimum of 2% to the street or other approved drainage area. All landscaping should drain away from all primary and/or secondary structures.

11.5 Positive drainage is defined as:

- Not less than 4% extending a minimum distance of 6 feet away from all foundations systems where landscaping is immediate to the structure.
- Hardscape or drive areas immediate to foundation systems drained by sheet flow and/or earthen swale (without deck drains) should provide a minimum of 2% positive drainage extending a minimum distance of 6 feet away from all foundation systems along with maintaining a minimum 2% positive drainage gradient to the street or other approved drainage discharge area.
- Hardscape or drives employing redundant deck drains may be planned at a minimum 1% positive drainage gradient away from foundation systems, provided deck drain flow line maintain a minimum 2% gradient and the number and size of the deck drains provided are more than adequate to prevent ponding during severe weather.

XII. PLAN REVIEW AND INSPECTIONS

Geotechnical Review:

While *Pacific Materials Laboratory, Inc.* makes every effort to anticipate needs, often times it is necessary to respond to specific issues based upon building official geotechnical reviews of development plans and geotechnical reports. Preparation of follow-up geotechnical response reports "are not normally included within the scope of our contracted works or agreement". The cost associated with follow-up geotechnical report(s) will be based upon our current *Schedule of Laboratory Fees*. Normally responses include registered engineers, staff engineers and clerical hour(s). However, in some cases additional laboratory and/or field testing may be required. Please feel free to contact our office if necessary for details.

Additional geotechnical services are also normally associated with the final review of plans as well as the construction phase of development. The costs associated with these services are not included within the scope of contracted services. Here again, all additional services will be invoiced in accordance with our laboratory schedule fees. Following is a listing of recommended follow-up geotechnical issues.

- Complete sets of final *grading, site, foundation and landscape* plans should be submitted to *Pacific Materials Laboratory, Inc.* for geotechnical content review and written comment. *Pacific Materials Laboratory, Inc.* reserves the right to recommend plan changes and to provide additional recommendations at that time if warranted by the review(s).
- At a minimum, a representative of *Pacific Materials Laboratory, Inc.* should be requested to observe the following phases of construction. *Pacific Materials Laboratory, Inc.* reserves the right to modify (*increase or decrease*) the scope of observations and testing as conditions dictate. *Pacific Materials Laboratory, Inc.* further reserves the right to modify geotechnical recommendations commensurate with the new information, facts, observations or findings as conditions mandate. Supplemental geotechnical recommendations may prove warranted based upon exposure and interpretation of actual conditions during grading activities.
 - Verify vegetation, asphalt concrete and debris removal
 - Observe each light pole foundation excavation
 - *Periodic* observation and random compaction testing of utility trench backfill (*if any*)
 - *Periodic* observation and random compaction testing of all structural section preparation (*subgrade, base and asphalt*) (*if any*)
- Foundation excavation observations should be made prior to placing reinforcing steel, forms or concrete. It is the responsibility of the owner or the owners representative to coordinate construction timing and to notify *Pacific Materials Laboratory, Inc.* a minimum of 48 hours in advance of the start of or of required observations and testing. Failure to coordinate geotechnical observations and follow-up testing services at the proper construction sequence could result in increased testing costs, construction delays or both.

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XIII. CLOSURE

As discussed herein, this report is issued and made for the sole use and benefit of the client. *Pacific Materials Laboratory, Inc.* affirms that contents of this report remain applicable for a period of not greater than 12 months from the date of this report. Reports more than 12 months old require written supplemental updating by *Pacific Materials Laboratory, Inc.* to compliment prevailing specifications, building codes and standards of practice.

This report concludes the current contracted agreement between *Pacific Materials Laboratory, Inc.* and the client. The recommendations contained herein are based upon the assumption that *Pacific Materials Laboratory, Inc.* will be requested to provide the necessary testing and observation services which are recommended during rough grading, fine grading and construction. Additional services and associated fees will be necessary to verify the actual soil conditions encountered and to affirm that the plans and construction are consistent with the intent of the recommendations provided herein

A current Schedule of Fees should have already been provided to you prior to the commencement of current services. The Schedule of Fees will be the basis of all further invoices and will be fully itemized as a service to you. If you have not received a current Schedule of Fees it is incumbent to request one at your earliest convenience. If additional geotechnical services are performed by others, only the technical correctness of the actual tests performed can be attested to. Should a separate geotechnical firm assume this project, *Pacific Materials Laboratory, Inc.* will not be responsible for interpretations, opinions, conclusions nor recommendations made by others with regard to fill selection, fill placement, compaction, foundation, slab or hardscape support or any summary of findings, conclusion, recommendation or opinion presented in this report.

Thank you for allowing *Pacific Materials Laboratory, Inc.* to be of service. If we may be of further service regarding this or other geotechnical issues, please do not hesitate to call (805) 482-9801, fax (805) 445-6551 or write.

Respectfully Submitted,
PACIFIC MATERIALS LABORATORY, INC.


Douglas C. Papay, GE 664
President

DCP:ma

cc: Addressee (5)

Attachments:

References Cited

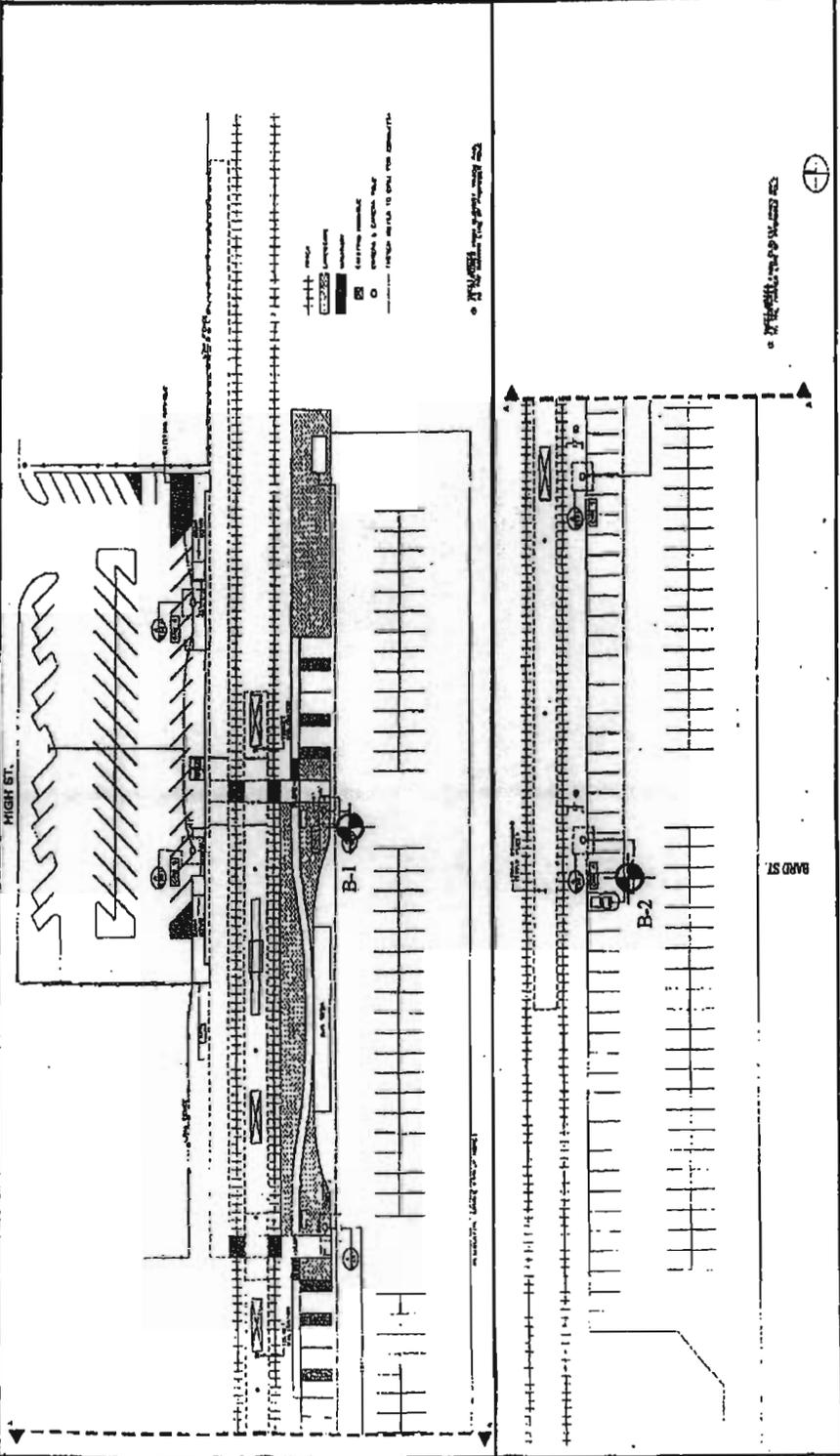
Enclosures A, B, C and D

PACIFIC MATERIALS LABORATORY, INC.

REFERENCES CITED

1. *ASTM - 2001 Annual Book of ASTM Standards, Section 4, Volume 04.08 "Soil and Rock"*
2. *International Conference of Building Officials (ICBO), Maps of Known Active Fault Near Source Zones in California and Adjacent Portions of Nevada, February, 1998, ISBN 1-58001-008-3*
3. *International Conference of Building Officials (ICBO), 2001 California Building Code, California Code of Regulations, Title 24, Part 2 (Volumes 1 & 2), 2002*
4. *State of California Department of Transportation Laboratory Manual of Test Volumes 1, 2 & 3 Third Edition 1978*
5. *Ventura County General Plan, Hazards Appendix, dated January 27, 2004*

APPENDIX A



ENCLOSURE - A
 Scale: None
 File No. 07-7964-3
 By: CH
 Lab No. 32909-3
Pacific Materials Laboratory, Inc.

 - denotes test boring location

APPENDIX B

BORING LOG LEGEND

- SPT** - Standard Penetration Split Barrel (1.5"IDx18"Length, with liners), ASTM D1586
- SB** - Split Barrel Sampler (2.5"ID x 18" length, with liners), ASTM D 1586
- TW** - Thin Wall Tube (Shelby) Sampler, ASTM D1587
- SC** - Sand Cone Compaction Test, ASTM D 1556
- Nspt** - Result of Standard Penetration Test. N represents the number of blows with a 140 lb. hammer falling 30" to drive a SPT sampler 12" into insitu material.
- Neq** - Approximately equivalent to Nspt but is based upon the number of blows with a 140 lb. hammer falling 30" to drive a SB sampler 12" into insitu material and calculating an equivalent standard penetration blow count, after R. H. Karol, *Soils and Soils Engineering*, Prentice - Hall, Inc. 4/6 Page 23.
-  - Indicates elevation of free water surface encountered
- USCS**- Unified Soil Classification System - Method of defining soil types

USCS - MAJOR DIVISION		Group Symbol	DESCRIPTION	
Gravelly Soils With Over 50% of The Coarse Fraction Larger Than No. 4 Sieve Size	Clean Gravelly Soils With Little or No Fines	GW	Well Graded Gravels	
		GP	Poorly Graded Gravels	
	Sandy Gravelly With Fines	GM	Silty Gravels Well or Poorly Graded Gravel-Sand-Silt Mixtures	
		GC	Clayey Gravels Well or Poorly Graded Gravel-Sand-Clay Mixtures	
Sandy Soils With Over 50% of the Coarse Fraction Smaller Than No. 4 Sieve Size	Clean Sandy Soils With Little or No Fines	SW	Well Graded Sands	
		SP	Poorly Graded Sands	
	Sandy Soils With Fines	SM	Sand-Silt, Silty Sands Well or Poorly Graded Sand-Silt Mixtures	
		SC	Clayey Sands Well or Poorly Graded Sand-Clay Mixtures	
Silty and Clayey Soils	Liquid Limit Less Than 50%	ML	Inorganic Silts and Very Fine Sands, Rock Flour, Silty or Clayey Fine Sands, or Clayey Silts with Slight Plasticity	
		CL	Inorganic Clays of Low to Medium Plasticity, Gravelly Clays, Sandy Clays, Silty Clays or Lean Clays	
		OL	Organic Clays or Organic Silty Clays of Low Plasticity	
	Liquid Limit Greater Than 50%	MH	Inorganic Silts, Micaceous or Diatomaceous Fine Sandy or Silty Soils, or Elastic Silts	
		CH	Inorganic Clays of High Plasticity, or Fat Clays	
		OH	Organic Clays of Medium to High Plasticity, or Organic silts	
Highly Organic Soils		PT	Peat or Other Highly Organic Soil	

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LOG OF BORING							
Drilled : 01/10/07 Logged by : JB Equipment : Badger B-80 Mobile Hollow Stem Auger Drill Rig						Boring No. 1	
Blow Count Neq	Relative Compaction (%)	Tube Type	Dry Density (pcf)	Moisture Content (%)	Depth (ft)	USCS	DESCRIPTION
							2.75" of asphalt concrete over 6.5" of base
58		SB	94.9	15.6	2 -	GP-SM	Artificial Fill (Af)?: Brown gravelly silty coarse to fine sand, moist and very firm
56		SB	106.3	12.3	4 -		
21		SB	*	12.3	6 -	GP-SM	Dark brown gravelly silty medium to fine sand, moist and moderately firm
16		SB	*	16.3	8 -	GP-SM	Dark brown gravelly silty fine sand with glass, metal, and plastic debris and a slight organic odor, moist and moderately loose
12		SB	*	4.7	10 -	CL-CH	Native Topsoil?: Dark brown silty clay, moist and moderately loose
					12 -	SM	Light brown silty medium to fine sand, damp and moderately loose
					14 -	SM	Light brown silty medium to fine sand, moist and moderately loose
10		SB	*	10.5	16 -	SM	Light tan-brown silty fine sand, moist and moderately loose
					18 -	GP-SM	Light tan-brown gravelly silty coarse to fine sand, damp and firm
34		SB	*	3.6	20 -		
					22 -	GP-SM	Light-tan-brown gravelly coarse to fine sand, damp and very firm
41		SB	*	3.1	24 -		
						Total depth attempted = 25' No Freewater encountered Sidewall caving below 5'	

* = Sample attempted but not recovered

LOG OF BORING							
Drilled : 01/10/07 Logged by : JB Equipment : Badger B-80 Mobile Hollow Stem Auger Drill Rig						Boring No. 2	
Blow Count Neq	Relative Compaction (%)	Tube Type	Dry Density (pcf)	Moisture Content (%)	Depth (ft)	USCS	DESCRIPTION
							3" of asphalt concrete over 8" of base
14		SB	117.5	12.3	2 -	ML-MH	Native Topsoil?: Brown gravelly clayey silt and fine sand, moist and moderately loose
17		SB	106.1	15.6	4 -	GP-SM	Brown gravelly silty medium to fine sand, moist and moderately loose
12		SB	106.2	11.7	6 -	SW-SP	Dark brown medium to fine sand, moist and moderately loose
12		SB	108.7	10.5	8 -	GP-SM	Brown gravelly silty medium to fine sand, moist and moderately loose
12		SB	*	8.7	10 -	GP-SM	Light tan-brown gravelly silty medium to fine sand, moist and moderately loose
					12 -		
					14 -		
24		SB	106.9	4.7	16 -	GP-SP	Light tan-brown gravelly medium to fine sand with small cobbles, damp and moderately firm
					18 -		
					20 -		
28		SB	90.0	7.5	22 -	GP-SM	Light brown gravelly silty medium to fine sand, moist and moderately firm
					24 -		
68		SB	115.8	5.3		GP-SM	Light yellow-brown gravelly silty medium to fine sand, damp and firm
						Total depth attempted = 25' No Freewater encountered Sidewall caving from 10'-20'	

* = Sample attempted but not recovered

APPENDIX C

LABORATORY TEST DATA

LABORATORY COMPACTION CHARACTERISTICS (ASTM D1557)

Maximum density optimum moisture data was determined in the laboratory from bulk soil samples using ASTM D1557 procedures. The test uses a 4 or 6 inch diameter mold of 1/30 or 1/56 cft. volume respectively. The soil is moistened to various degrees of saturation and compacted in 5-layers, using a 10-pound hammer falling 18-inches, and 25 or 56 blows per layer for 4 or 6 inch molds respectively. The test results are tabulated below.

<u>SOIL TYPE</u>	<u>ASTM METHOD</u>	<u>SOIL DESCRIPTION</u>	<u>MAXIMUM DRY DENSITY (lbs/cft)</u>	<u>OPTIMUM MOISTURE CONTENT (%)</u>
1	C	Brown Gravelly Silty Sand	126.0	10.5

EXPANSION INDEX TEST DATA (UBC Volume 3, Section 18-2)

An expansion index test was performed on representative near surface soil encountered. The expansion testing was performed in accordance with the 1997 edition of the UBC Standards Test No.29-2 and compared to Table 18-1-B of the California Building Code. The test results are tabulated below.

<u>SOIL TYPE</u>	<u>INITIAL MOISTURE CONTENT (%)</u>	<u>FINAL MOISTURE CONTENT (%)</u>	<u>DRY DENSITY (lbs/cft)</u>	<u>EXPANSION INDEX</u>	<u>EXPANSION^A POTENTIAL</u>
1	9.9	16.9	108.1	3	Very Low

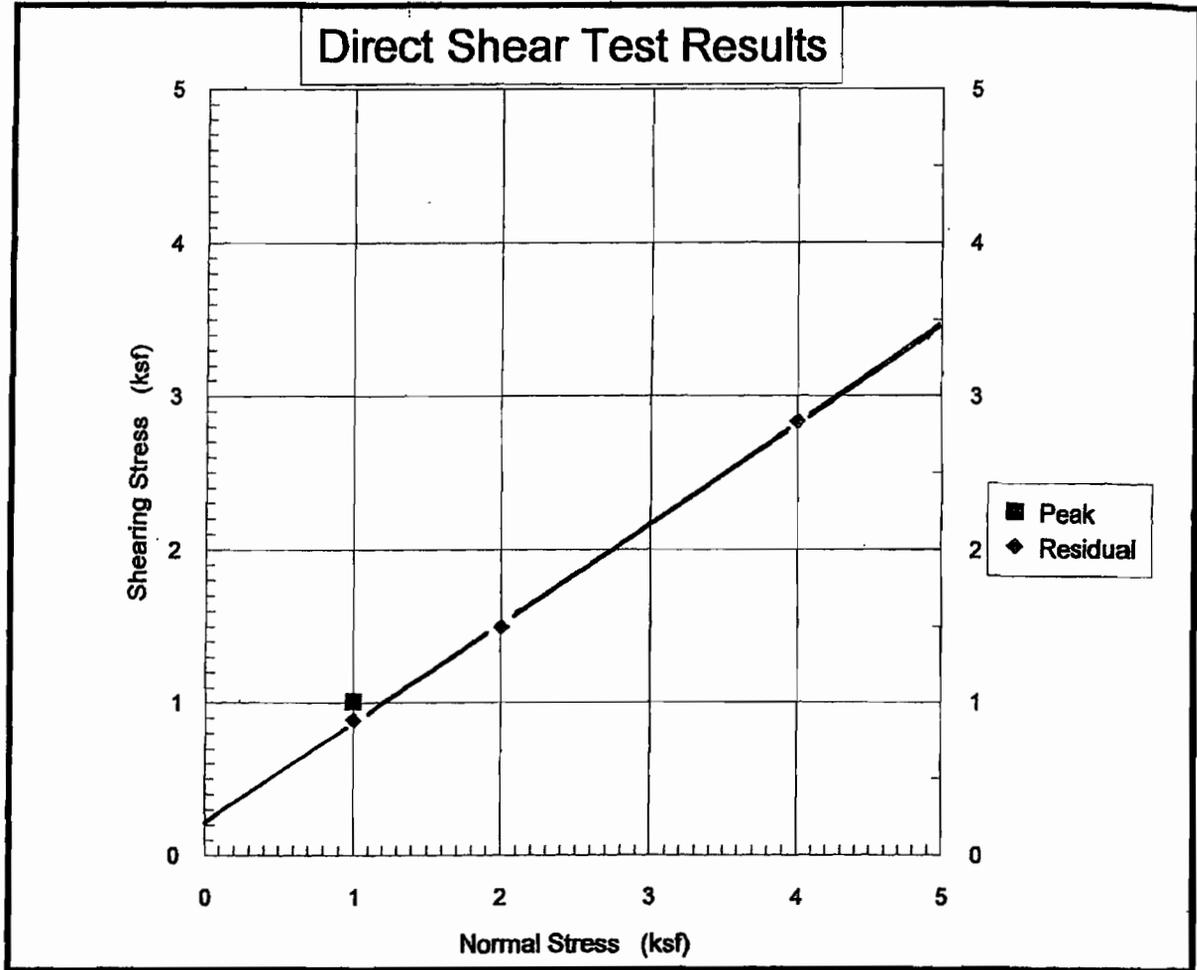
^A Per CBC Table No. 18-1-B "Classification of Expansive Soils"

MECHANICAL & HYDROMETER ANALYSES (ASTM D422)

MECHANICAL ANALYSIS (Values in Percent Passing)

<u>SIEVE SIZE</u>	<u>LOCATION B-1 @ 3.0'</u>	<u>LOCATION B-2 @ 3.0'</u>
3/4"	100	
1/2"	93	100
3/8"	91	100
No. 4	86	99
No. 8	83	99
No.16	73	97
No.30	56	86
No. 50	37	64
No. 100	22	43
No. 200	16	30

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Sample Location: B-2 @ 5.0'
Soil Description: Brown Sand

In situ Reverse Shear

Residual Values:
 Internal Angle of Friction = 33 degrees
 Cohesion = 216 psf

Peak Values:
 Internal Angle of Friction = 33 degrees
 Cohesion = 341 psf

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APPENDIX D

BEARING CAPACITY OF SHALLOW FOOTINGS

PROJECT: Moorpark Metrolink

SOIL: Brown Silty Sand

I. CONTINUOUS STRIP FOOTING

W = 120 pcf	B = 1.3 ft	NC = 38.64
C = 216 psf	d = 1.0 ft	NQ = 26.09
ANGLE = 33 deg.	Kw = 1.00	NW = 35.19
FS = 10	Kc = 1.00	KQ = 1.00

$$\text{allowable bearing capacity} = q/FS = (0.5WBK_wNW + CKCNC + KqdWNQ)/FS = \mathbf{1,412 \text{ psf}}$$

II. SPREAD FOOTINGS

W = 120 pcf	B = 3.0 ft	NC = 38.64
C = 216 psf	d = 1.0 ft	NQ = 26.09
ANGLE = 33 deg.	Kw = 0.60	NW = 35.19
FS = 20	Kc = 1.68	KQ = 1.65

$$\text{allowable bearing capacity} = q/FS = (0.5WBK_wNW + CKCNC + KqdWNQ)/FS = \mathbf{1,488 \text{ psf}}$$

III. LATERAL EARTH PRESSURES AND COEFFICIENT OF FRICTION

Factor of Safety	Soil Friction Angle	Soil Cohesion (pcf)	Soil Unit Weight (pcf)	Allowable Coefficient of Sliding Friction	Allowable Passive Pressure (psf/ft)	Yielding Level Backfill Active pressure (pcf)	Non-Yielding Level Backfill Active pressure (pcf)
1.5	33	216	120.0	0.43	377	30	55

NOTES:

1. The allowable bearing values above are based upon the GENERAL BEARING CAPACITY FORMULA for shallow footings without consideration of total or differential settlement. Accordingly the design allowable bearing capacity values recommended in this report for design may be lower than values computed above.
2. Active retaining wall design parameters are based upon the Empirical method of determination of Earth Pressure. Design earth pressures recommended in this report may be higher to account for potential creep (if any).
3. Non-Yielding condition assumes at rest conditions (no deformation).

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**Metrolink Security/Retaining Wall
Specification No. MPK 11-01
Bid Clarification Notice #2**

Answers to Contractor Questions submitted via email:

- Q: Request for Information, Draper Construction
The soil report recommends wall footing to be overexcavated and recompactd an additional 12" deep and scarify 6". All vegetation and root balls to be removed and recompactd. Are these a requirement to be formally part of the bid specs.?
- A: Yes, these requirements are part of the bid specifications as originally issued. General Note 7 found on Page 2 of 3 of the Construction Plans issued as part of the bid documents states "All recommendations in Pacific Materials Laboratory, Inc.'s File 11-7964-3 and Lab 34352-3 (dated January 26, 2011) shall be followed at all times and are part of this set of drawings".
- Q: Request for Information, Pacific Construction Company, Inc.
Page # 8 of 88 does not make sense to me. This bid is a Lump Sum bid and unit prices are irrelevant. The quantities needed are all estimates and can not be final.
- A: The bid is a lump sum price. Page 8 of 88 states "These prices are to be used for additions or deletions to the contract", and is the purpose for requesting unit prices be submitted. Contractors are hereby authorized to omit Page 8 of 88 from their Bid Submittal. Changes to the contract, if needed, will be governed by Section 3 of the Greenbook, "Changes in Work".

###

Note: Bids are due Thursday, April 7 no later than 3:00 p.m.

Bidders are to sign Bid Clarification Notice #2 to and fax back to (805) 532-2530.

Acknowledgement:

Company Name

Bidders Signature

Print Name

**Metrolink Security/Retaining Wall
Specification No. MPK 11-01
Bid Clarification Notice #3**

Answers to Contractor Questions submitted via email:

Q: Request for Information, Mendez Concrete, Inc.
Manuel went out to the job site after survey and noted the following items.
At station 1+50 to 2+50 there is a small tree, shrubs, overgrown ivy, and approx. 25' of 6' high wooden fence.
At station 5+00 there is a tree encroaching in the work area.
At station 6+50 there is a small tree, chain link fence, wooden fence, and steel fence.
On your general notes it states that the city will contact adjacent property owners to instruct them of the removals encroaching on city property.
Are contractors to assume absolutely no work will be required for the removal of any type of material encroaching? Please reply asap.

A: No. At the top of Bid Clarification #1 under heading "Attachments provided for bidder's use for additional specification clarifications", Bullet #2 states:

- Survey grade stake cut sheet prepared by CVE Engineering dated March 25, 2011 (Note: contractor is responsible to include removal of any encroachments within contractors bid price).

To clarify and re-state: CONTRACTOR IS RESPONSIBLE TO INCLUDE REMOVAL OF ANY ENCROACHMENTS IN CONFLICT WITH CONSTRUCTION OF THE WALL WITHIN CONTRACTORS BID PRICE.

The City will contact property owners on First Street adjacent/contiguous to the location of the Metrolink wall and inform these owners that improvements they have constructed upon City property in conflict with construction of the wall will be removed by the contractor awarded the contract to construct the Metrolink Security/Retaining Wall. Any temporary fencing required in such locations is to be included in the bid price for construction of the wall pursuant Page 86 of 88 of the Bid Manual, Technical Specifications, Item 6.

###

Note: Bids are due Thursday, April 7 no later than 3:00 p.m.

Bidders are to sign Bid Clarification Notice #3 to and fax back to (805) 532-2530.

Acknowledgement:

Company Name

Bidders Signature

Print Name

**Metrolink Security/Retaining Wall
Specification No. MPK 11-01
Bid Clarification Notice #4**

Answers to Contractor Questions submitted via email:

Q: Request for Information, Mendez Concrete, Inc.
Page 34 of 88 paragraph 5 states contractor shall provide "all risk" insurance. Is this boiler plate spec or is this required?

A: Yes, "all risk" insurance is required.

Page 34 of 88 of the Bid Manual, Exhibit A, Insurance, Item 5, Course of Construction, states that "all risk" coverage will be provided. The insurance requirements provided in Exhibit A are requirements; inability to comply with these requirements will result in a bidder being found non-responsive and may result in forfeiture of a bid bond.

At the mandatory job walk conducted onsite on March 25, 2011 at 9:00 a.m., the first item discussed was insurance requirements under this contract, and the required insurance endorsements. Additional Insured – Owners, Lessees or Contractors – (Form B) endorsement CG 20 10 11 85 was handed out to job walk attendees for informational purposes.

Bidders are instructed to ensure that all insurance requirements are adhered to and incorporated within contractors bid.

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Note: Bids are due Thursday, April 7 no later than 3:00 p.m.

Bidders are to sign Bid Clarification Notice #4 to and fax back to (805) 532-2530.

Acknowledgement:

Company Name

Bidders Signature

Print Name