

**MOORPARK CITY COUNCIL  
AGENDA REPORT**

**TO: Honorable City Council**

**FROM: Yugal K. Lall, City Engineer/Public Works Director  
Prepared by: Dave Klotzle, Assistant City Engineer**



**DATE: September 23, 2009 (CC Meeting of 10/07/09)**

**SUBJECT: Consider Award of Contract for the 2009 Pavement Rehabilitation –  
Project 8002 and a Resolution Amending the Fiscal Year 2009/10  
Budget to Revise the Budget and Funding Sources for the Project**

**BACKGROUND**

One element of the City's pavement maintenance program is the periodic application of a protective slurry seal to the pavement surface of all of the streets in the City. The program objective is to maintain a bi-annual program (construct a project every other year) in which each project addresses approximately one-third of the residential streets in the City. In this way, every residential street in the City should be slurry sealed once every six (6) years. The last pavement maintenance program was constructed in Spring 2007.

On July 15, 2009, the City Council approved the plans and specifications for the 2009 Pavement Rehabilitation Project, and authorized staff to advertise for construction bids.

**DISCUSSION**

**A. Scope of Work**

The proposed project will include two types of pavement rehabilitation: a) Type II Slurry for some streets, and b) an Asphalt Rubber Aggregate Membrane (ARAM) surface for others. Prior to the application of slurry seal and ARAM, all pavement cracks 1/8<sup>th</sup>-inch and wider will be sealed. The slurry seal portion of the project will include the application of Type II Slurry and the re-striping of all affected

The ARAM pavement surface is a type of a cape seal requiring three steps: A) the application of an asphalt-rubber binder which is sprayed onto the existing pavement, followed immediately by B) the spreading of a pre-coated rubber/gravel aggregate which is then "rubber-tire" rolled and embedded into the asphalt-rubber binder, followed seven days later by C) a Type II Slurry Seal. The asphalt-rubber binder includes material from recycled tires. An ARAM pavement surface is typically used to improve deteriorated pavement at a lower cost than the traditional asphalt overlay or pavement reconstruction.

Manhole and water valve covers will be adjusted to the new pavement surface as required. Staff is finalizing an agreement between the City and Ventura County Waterworks District No 1. (District) which provides that the District will reimburse the City for the costs to adjust District sewer manholes and water valve covers.

The parking lots at three of the City's parks (Peach Hill, Mountain Meadows and Tierra Rejada) will also be slurry sealed as a part of this project. The streets and parking lots included in the 2009 Pavement Rehabilitation Project are shown on the maps (Attachment 1), and listed in the charts (Attachment 2).

B. Bid Results and Analysis

Eight construction firms purchased the plans and specifications. Of that number, two bids were received and opened on August 25, 2009. The low bidder is Manhole Adjusting Contractors, Inc., of Pico Rivera, California. The low bidder possesses the necessary qualifications and experience to perform the work and additionally, is a responsive and responsible bidder.

The project has been broken into three bid schedules to provide flexibility in awarding a contract. Schedule A includes the streets shown on the attached maps located south of Campus Park Drive. Schedule B includes those streets located north of Campus Park Drive. Schedule C includes the three park parking lots described above. All three bid schedules or any combination of schedules could be awarded to one contractor depending on the actual bid prices received. A summary of the bid results showing a total for each schedule and the total bid amount for each bidder is listed as follows:

SUMMARY OF BID RESULTS

	Bidder No. 1 <u>Manhole Adjusting Contractors, Inc.</u>	Bidder No. 2 <u>International Surfacing Systems</u>
Schedule A	\$803,811.00	\$945,225.00
Schedule B	\$398,800.00	\$434,455.00
Schedule C	\$29,540.00	\$38,700.00
Total Bid	\$1,232,151.00	\$1,418,380.00

The detailed analysis of bids is attached (Attachment 3). The Engineer's estimate is \$1,159,456.00.

C. Project Schedule

The anticipated project schedule is as follows:

Award of Construction Contract	10/07/2009
Notice to Proceed	10/19/2009
Project Completion	12/18/2009

D. Project Administration and Inspection

Project administration will be performed by City staff with construction inspection to be provided by a consultant to be selected prior to the start of construction. Staff has solicited proposals from several inspection consultants and will select the most qualified firm to provide the inspection services. The City Manager will award a consultant agreement for these services at an estimated amount not to exceed \$50,000.00.

E. Environmental Determination

A notice of exemption for Categorical Exemption for this project has been filed with the County Clerk's Office in accordance with the California Environmental Quality Act, (Attachment 4).

**FISCAL IMPACT**

1. Project Cost Estimate

The total construction bid for all three schedules is \$1,232,151.00 which is higher than the available budget of \$1,030,548.00. Therefore, staff recommends 1) awarding a contract for Schedules A and C only at the total construction bid of \$833,351.00; and 2) authorizing the City Manager to increase the contract by up to \$200,000.00 for project contingencies and to add a number of streets from

Schedule B to fully utilize the available budget and maximize the number of streets resurfaced under this project.

A pending agreement between the City and Ventura County Waterworks District No. 1 (District) provides that the District will reimburse the City for the actual costs to adjust District sewer manholes and water valve covers. The reimbursement from the District is estimated to be approximately \$50,000.00.

The total project cost estimate is as follows:

Description	Estimated Cost
Design (in-house)	\$ -
Construction	
Bid Amount (Schedules A & C)	\$ 833,351.00
Additional Streets (Schedule B)	\$ 147,197.00
Contingency	\$ 50,000.00
Waterworks District Reimbursement	\$ (50,000.00)
Construction Total	\$ 980,548.00
Inspection	\$ 50,000.00
Project Total	\$ 1,030,548.00

2. Funding Sources

Recycled Tire Grant: Staff applied for and received a \$101,100.00 grant from the California Integrated Waste Management Board (CIWMB) for the use of recycled tires in a rubberized asphalt rehabilitation project. CIWMB will reimburse the City \$1.00 for each square yard of pavement rehabilitated with the ARAM process. The expected reimbursement from CIWMB is \$101,000.00.

Proposition 1B – Local Streets and Roads: The City has received the first round (FY 2007/08) of Proposition 1B – Local Streets and Roads Transportation Bond funds in the amount of \$581,448.00. The total amount of this first disbursement will be used on this project. Further disbursement of Proposition 1B funds is expected, however the State has indicated that disbursements will be delayed due to the recent State budget crisis.

Other Funds: A combination of Fund 2610 – Proposition 42, Traffic Congestion Relief and Fund 2400 – Park Maintenance Fund will be used to complete this project. There is currently \$315,000.00 in Fund 2610 – Proposition 42, Traffic Congestion Relief available for use on this project. The Park Maintenance Fund has sufficient funds for the park parking lot improvements at an anticipated cost of \$33,000.00 which includes the bid amount plus a 10% contingency for unforeseen extra work.

The Park Maintenance Fund has a balance of about \$135,000.00 as of June 30, 2009. This fund balance is the result of a transfer of General Fund monies as approved in the adopted FY 2008/09 budget, but not needed because of expenditure savings. It has always been the intent that any annual transfer of General Fund monies only be the actual amount needed to supplement the park maintenance assessments not the full amount budgeted. It is recommended that \$33,000.00 be used for the referenced park parking lots with the remaining estimated \$102,000.00 returned to the General Fund in a separate action to be presented to the Council in the future.

3. Budget Amendment

The Fiscal Year 2009/10 Capital Improvements Budget adopted by the City Council includes \$682,548.00 for the construction of this project. The attached Resolution (Attachment 5) amending the budget to allocate additional available funds is summarized below.

Fund	Current FY 09/10 Budget (\$)	Proposed Change (\$)	Proposed FY 09/10 Budget (\$)
<b>Construction</b>			
2609 - CIWMB Recycled Tire Grant	101,100.00		101,100.00
2610 - Prop 42 - Traffic Congest. Relief	0.00	315,000.00	315,000.00
2611 - Prop 1B - Streets & Roads	581,448.00	(50,000.00)	531,448.00
2400 - Park Maintenance Fund	0.00	33,000.00	33,000.00
Construction Subtotal	682,548.00	298,000.00	980,548.00
<b>Inspection</b>			
2611 - Prop 1B - Streets & Roads		50,000.00	50,000.00
<b>TOTAL</b>	<b>682,548.00</b>	<b>348,000.00</b>	<b>1,030,548.00</b>

**STAFF RECOMMENDATIONS (ROLL CALL VOTE)**

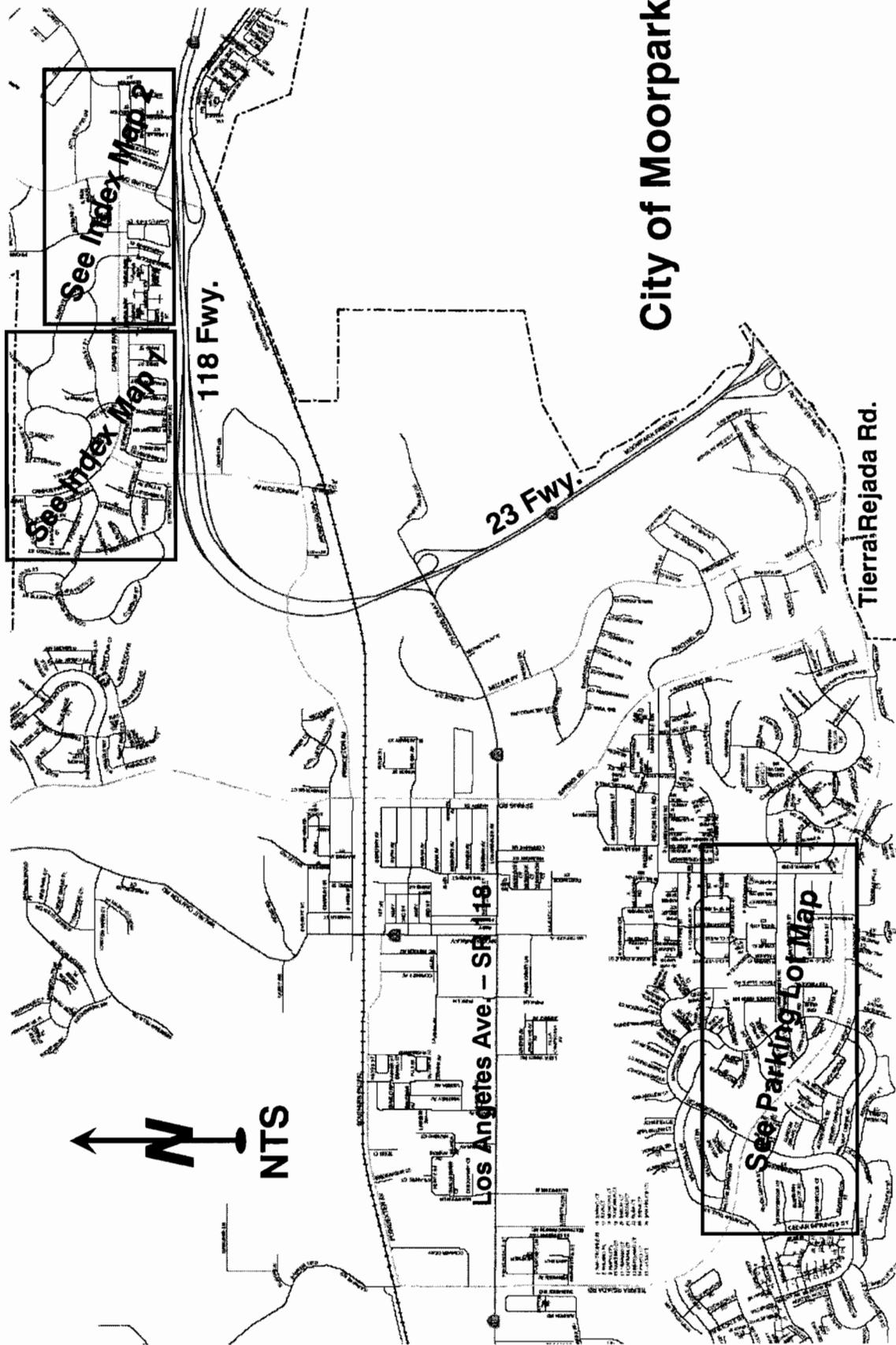
1. Award a construction contract to Manhole Adjusting Contractors, Inc., and authorize the City Manager to execute the construction contract in the amount of \$833,351.00 for the subject project; and
2. Authorize the City Manager to amend the construction contract for additional streets to be resurfaced and for project contingencies in an amount not to exceed \$200,000.00 if and when the need arises for extra work and services; and
3. Authorize the City Manager to award a consultant agreement for construction inspection services in an amount not to exceed \$50,000.00; and

4. Authorize the City Manager to sign the negotiated agreement with Ventura County Waterworks District No. 1 for adjustment of surface facilities, subject to final language approval by the City Manager and the City Attorney; and
5. Adopt Resolution No. 2009 - \_\_\_\_\_ amending the FY 2009/10 budget.

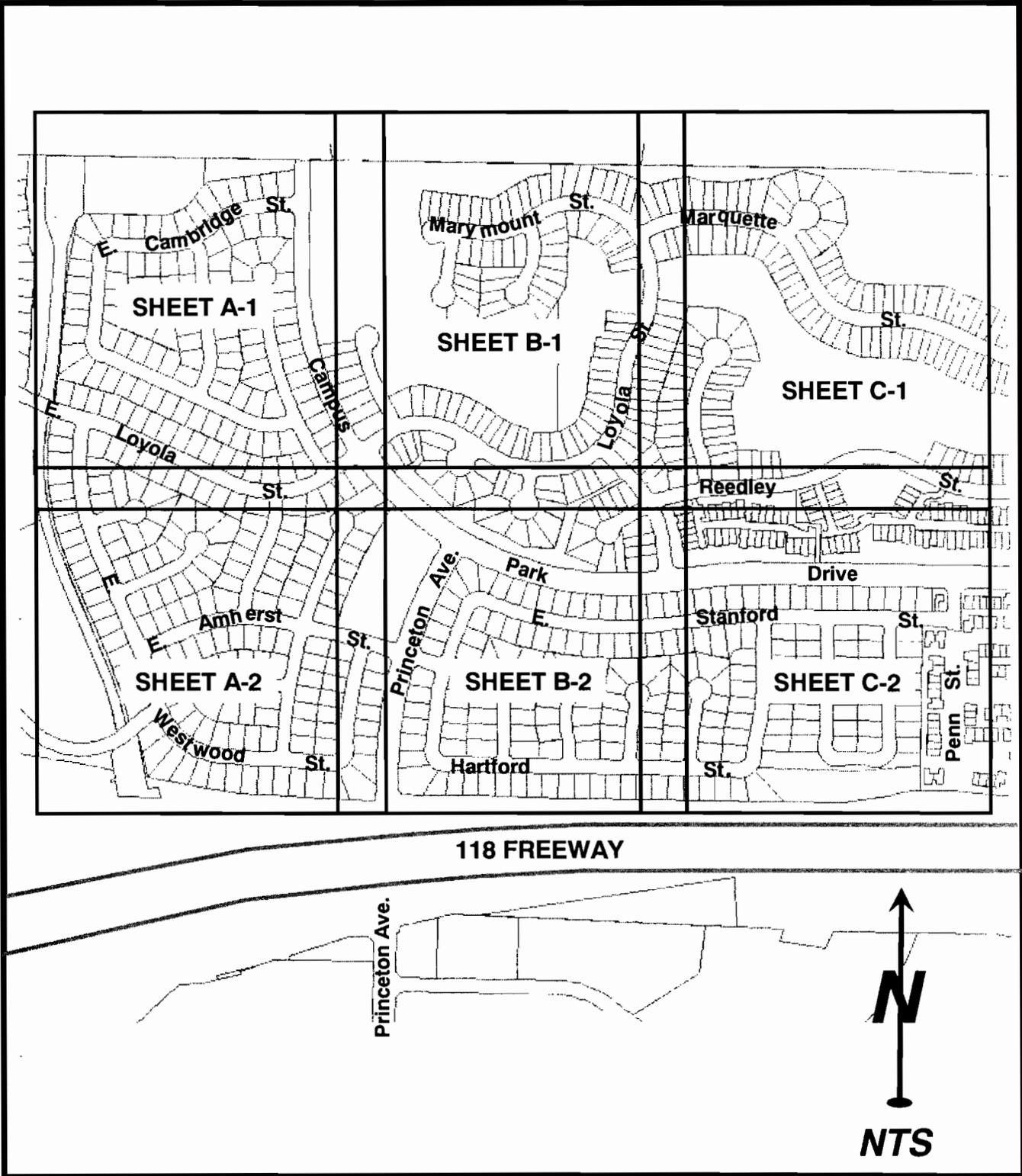
**Attachments:**

- 1 – Pavement Rehabilitation Location Maps
- 2 – List of Streets
- 3 – Bid Analysis
- 4 – Notice of Exemption
- 5 – Draft Resolution No. 2009 - \_\_\_\_\_
- 6 – Contract

# MPK 08-02 -- 2009 Pavement Rehabilitation Project Location Map

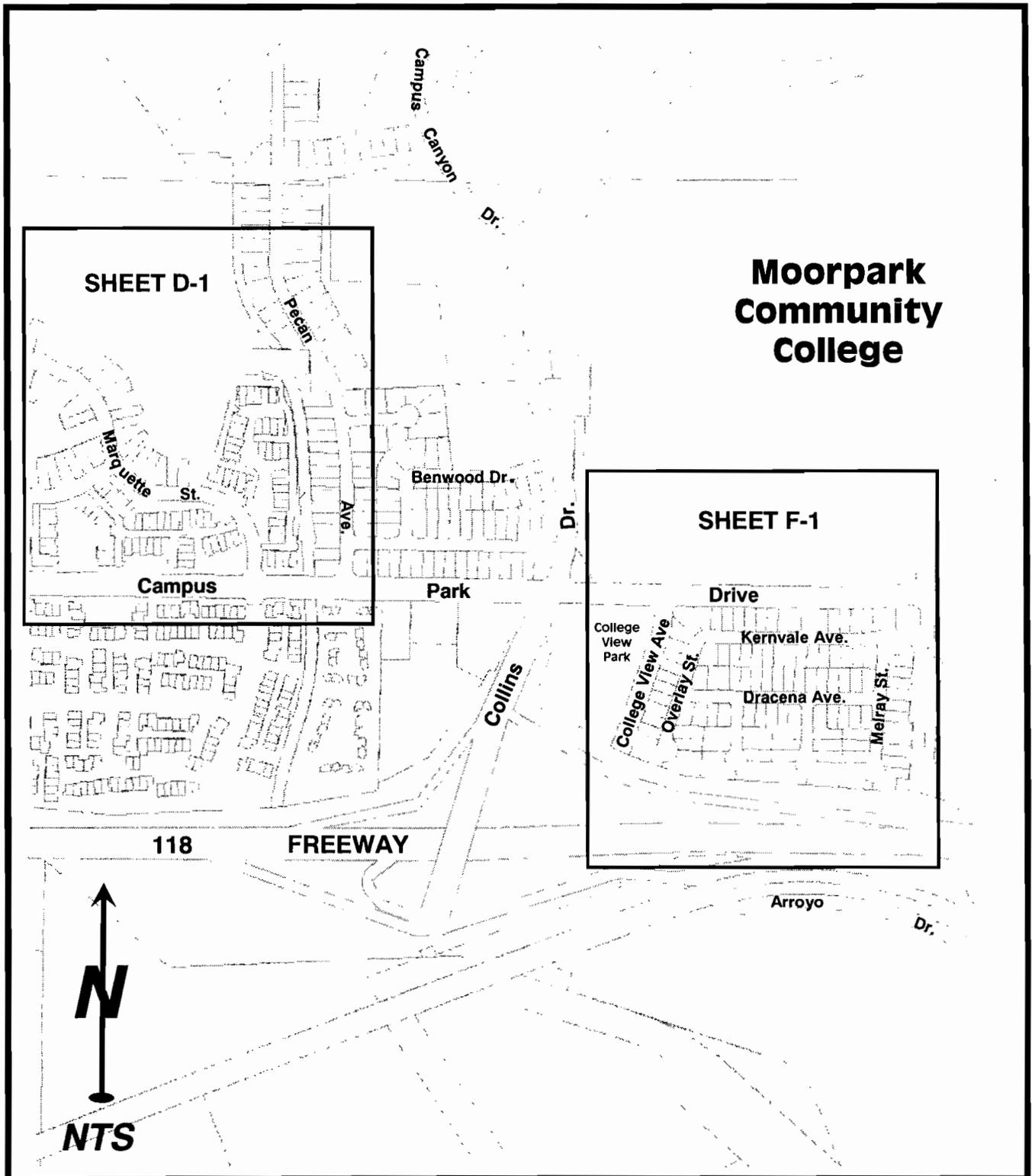


# MPK 08-02 -- 2009 Pavement Rehabilitation Project



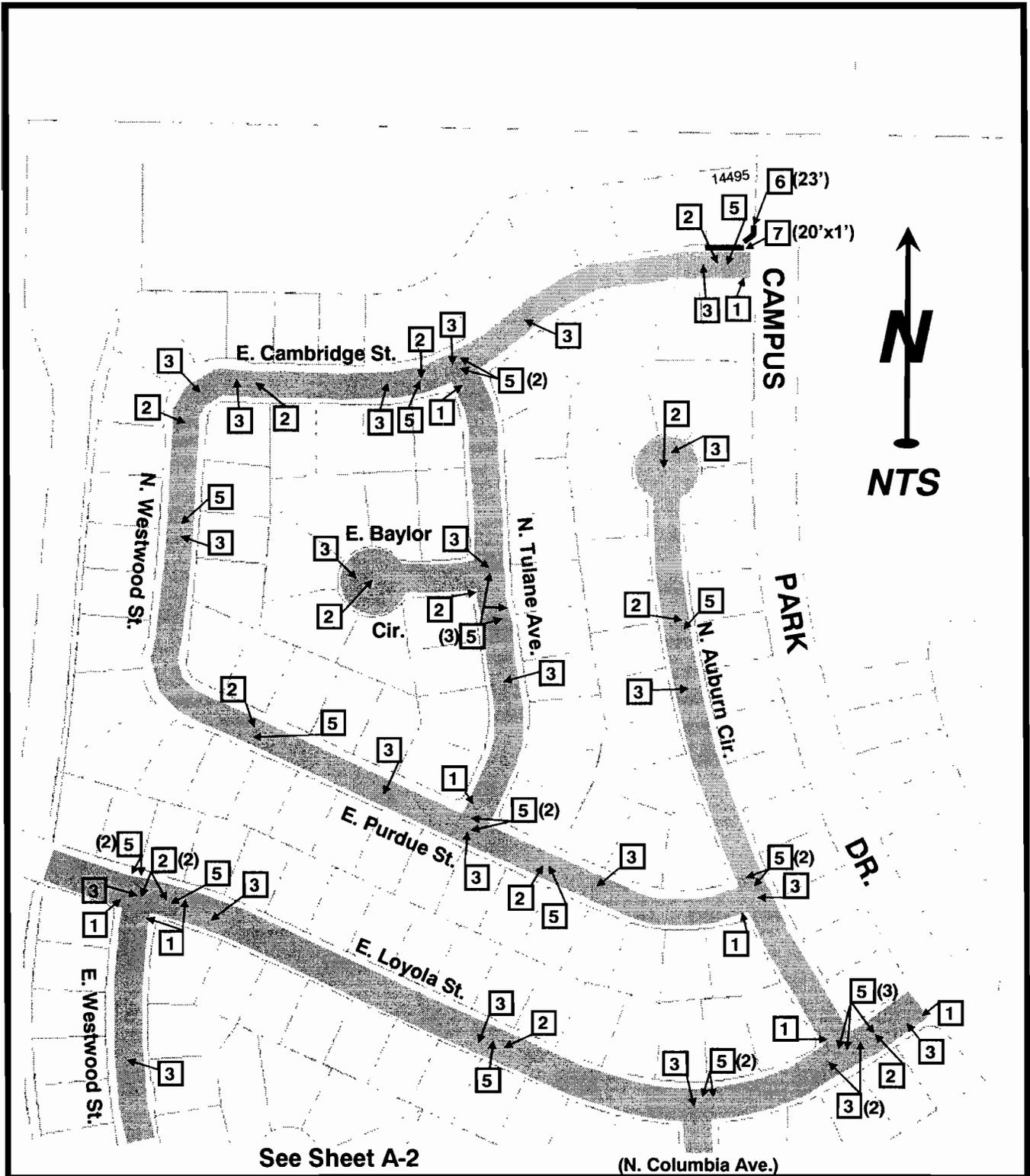
**INDEX MAP 1**  
Thomas Guide 476-G6,H6,J6

# MPK 08-02 -- 2009 Pavement Rehabilitation Project



**INDEX MAP 2**  
Thomas Guide 477-A6

# MPK 08-02 -- 2009 Pavement Rehabilitation Project

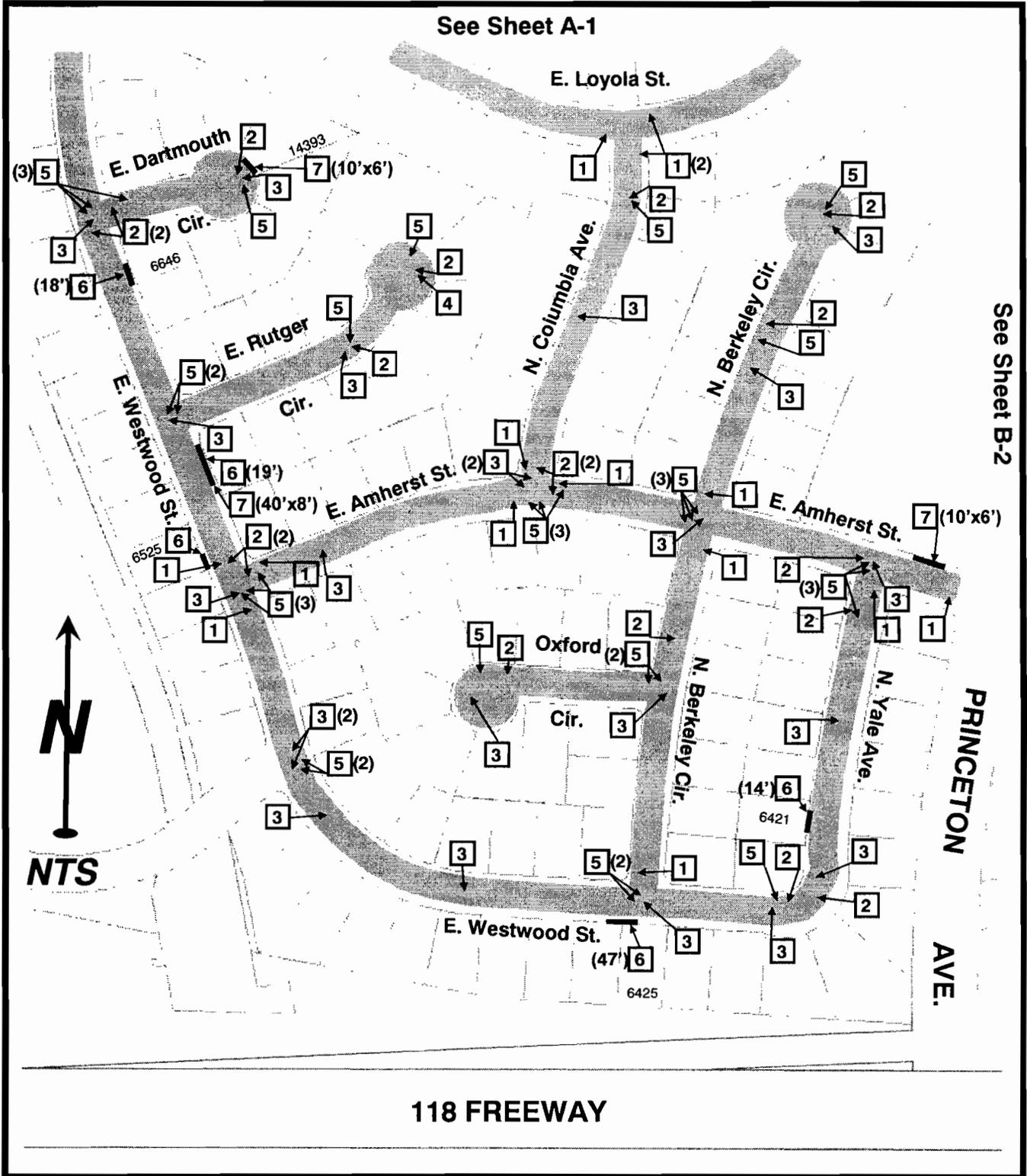


See Sheet A-2

(N. Columbia Ave.)

<b>LEGEND</b>			
ARAM	Slurry Seal Only	<b>4</b> Sewer Cleanout	<b>8</b> Std Pln A20A Detail 21
<b>1</b> Stop Bar & Legend	<b>5</b> Valve Lid	<b>6</b> Curb & Gutter R & R	<b>9</b> Std Pln A24E "X-Walk"
<b>2</b> Blue RPM (Hydrant Marker)	<b>7</b> Asphalt R & R	<b>10</b> Std Pln A20D Detail 38A	<b>11</b> Survey Monument
<b>3</b> Manhole Lid			

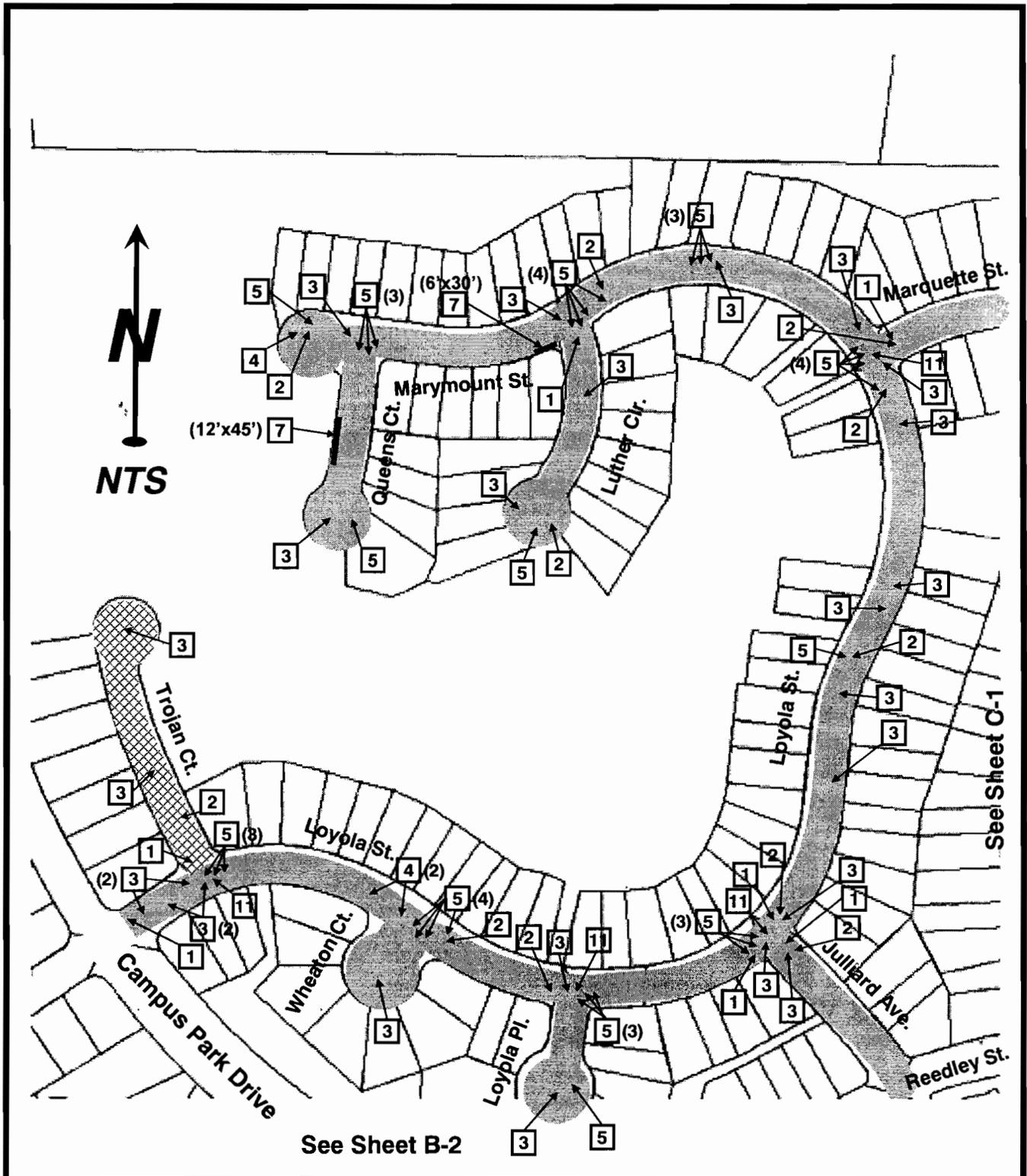
# MPK 08-02 -- 2009 Pavement Rehabilitation Project



118 FREEWAY

LEGEND		
ARAM	Slurry Seal Only	<b>4</b> Sewer Cleanout
<b>1</b> Stop Bar & Legend	<b>5</b> Valve Lid	<b>8</b> Std Pln A20A Detail 21
<b>2</b> Blue RPM (Hydrant Marker)	<b>6</b> Curb & Gutter R & R	<b>9</b> Std Pln A24E "X-Walk"
<b>3</b> Manhole Lid	<b>7</b> Asphalt R & R	<b>10</b> Std Pln A20D Detail 38A
		<b>11</b> Survey Monument

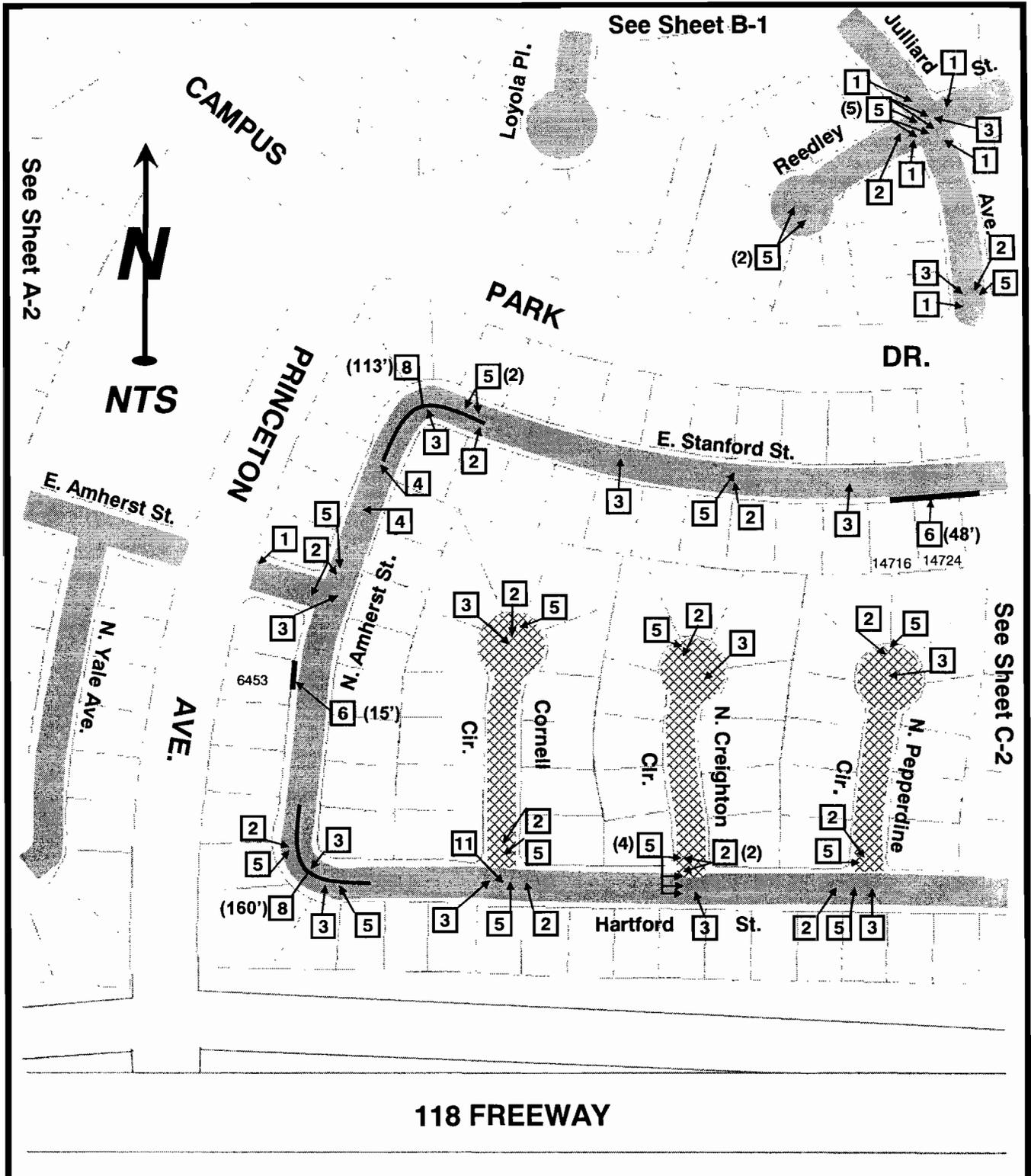
# MPK 08-02 -- 2009 Pavement Rehabilitation Project



**LEGEND**

ARAM	Slurry Seal Only	Sewer Cleanout	Std Pln A20A Detail 21
Stop Bar & Legend	Valve Lid	Curb & Gutter R & R	Std Pln A24E "X-Walk"
Blue RPM (Hydrant Marker)	Asphalt R & R	Std Pln A20D Detail 38A	Survey Monument
Manhole Lid			

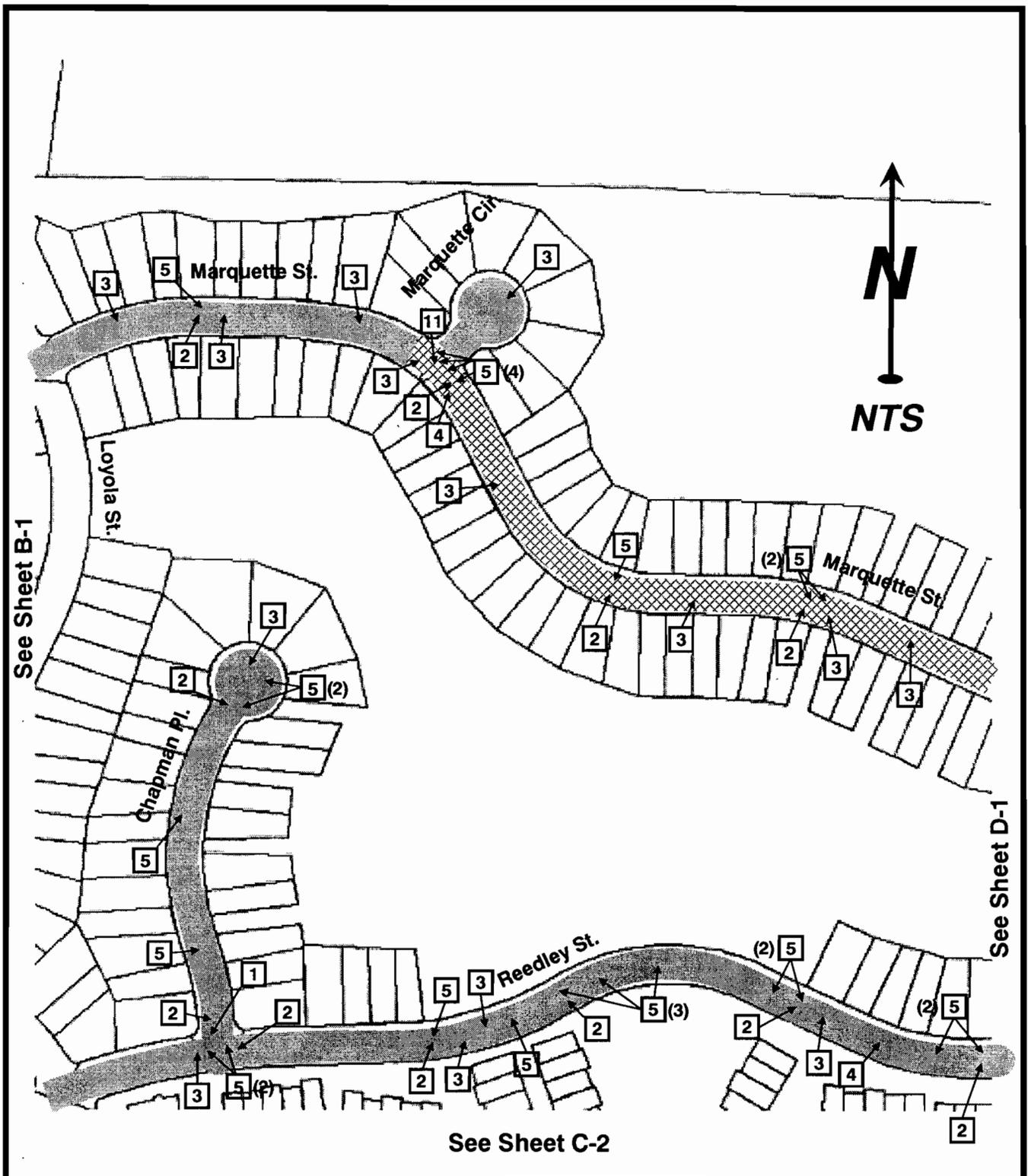
# MPK 08-02 -- 2009 Pavement Rehabilitation Project



**LEGEND**

ARAM	Slurry Seal Only	<b>4</b> Sewer Cleanout	<b>8</b> Std Pln A20A Detail 21
<b>1</b> Stop Bar & Legend	<b>5</b> Valve Lid	<b>9</b> Std Pln A24E "X-Walk"	<b>10</b> Std Pln A20D Detail 38A
<b>2</b> Blue RPM (Hydrant Marker)	<b>6</b> Curb & Gutter R & R	<b>11</b> Survey Monument	
<b>3</b> Manhole Lid	<b>7</b> Asphalt R & R		

# MPK 08-02 -- 2009 Pavement Rehabilitation Project

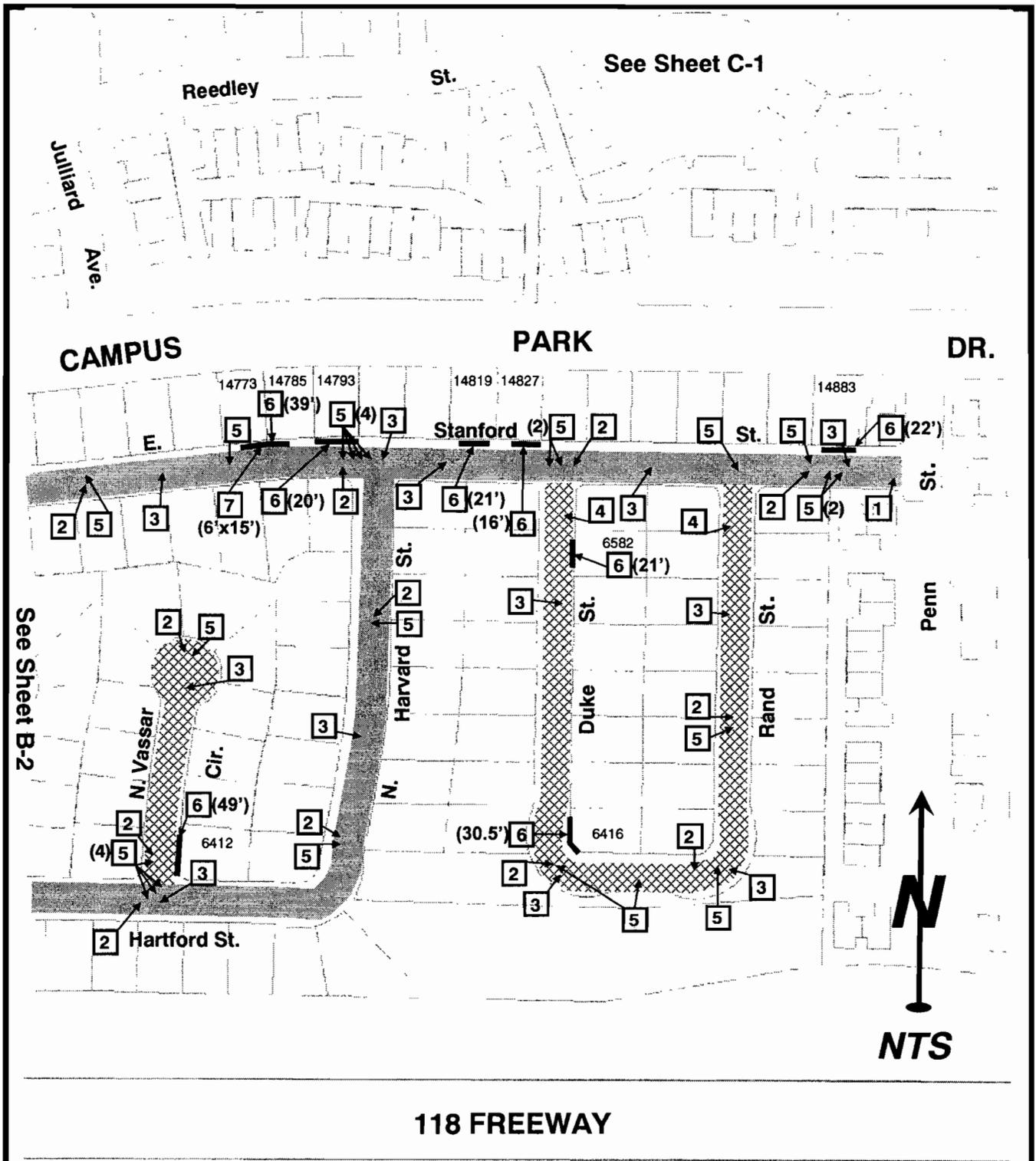


**LEGEND**

ARAM	Slurry Seal Only	4 Sewer Cleanout	8 Std Pln A20A Detail 21
1 Stop Bar & Legend	5 Valve Lid	6 Curb & Gutter R & R	9 Std Pln A24E "X-Walk"
2 Blue RPM (Hydrant Marker)	7 Asphalt R & R	10 Std Pln A20D Detail 38A	11 Survey Monument
3 Manhole Lid			

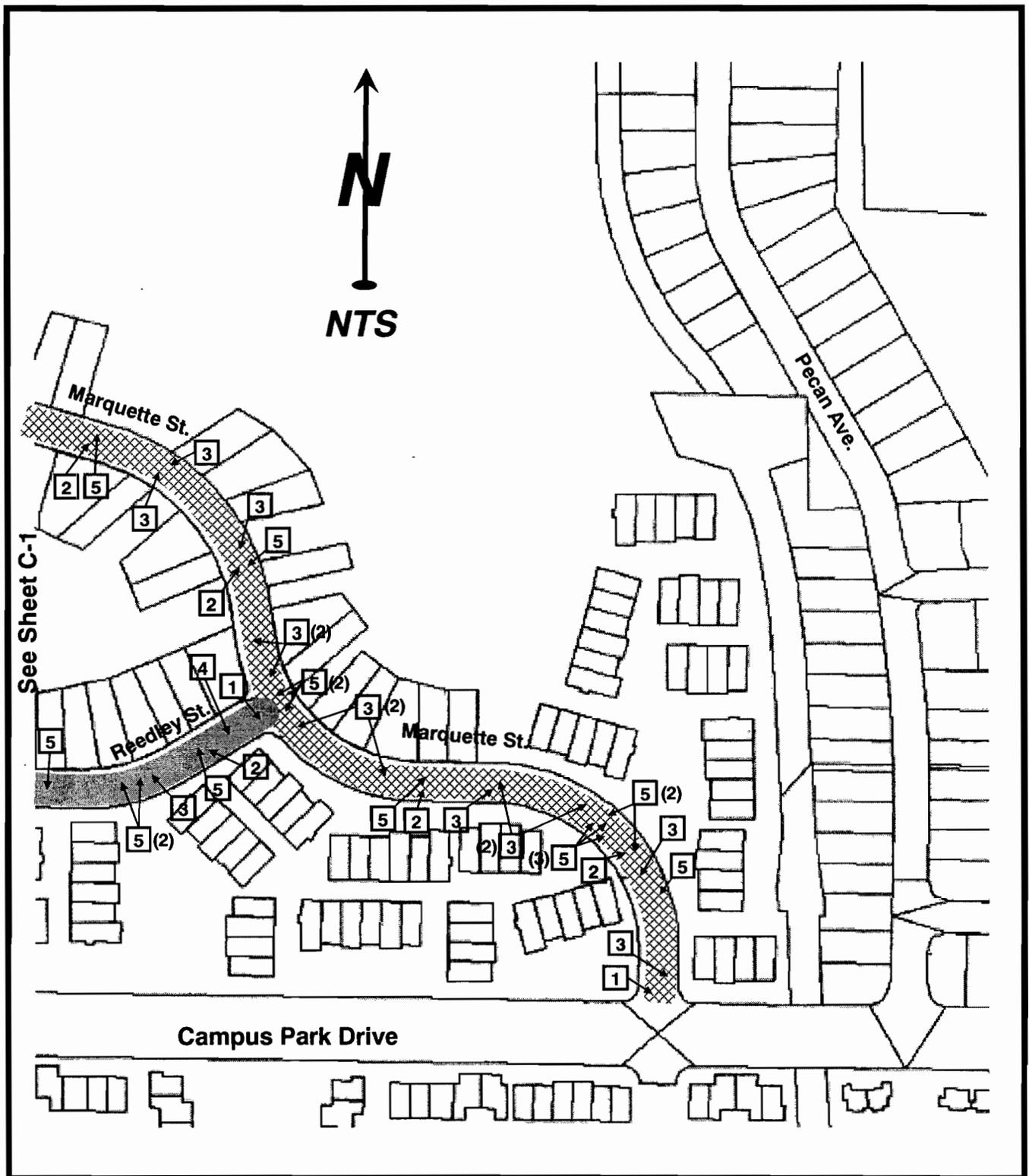
Sheet C-1

# MPK 08-02 -- 2009 Pavement Rehabilitation Project



<b>LEGEND</b>					
	ARAM		Slurry Seal Only		
	4	Sewer Cleanout		8	Std Pln A20A Detail 21
	1	Stop Bar & Legend		9	Std Pln A24E "X-Walk"
	2	Blue RPM (Hydrant Marker)		10	Std Pln A20D Detail 38A
	3	Manhole Lid		11	Survey Monument
	5	Valve Lid			
	6	Curb & Gutter R & R			
	7	Asphalt R & R			

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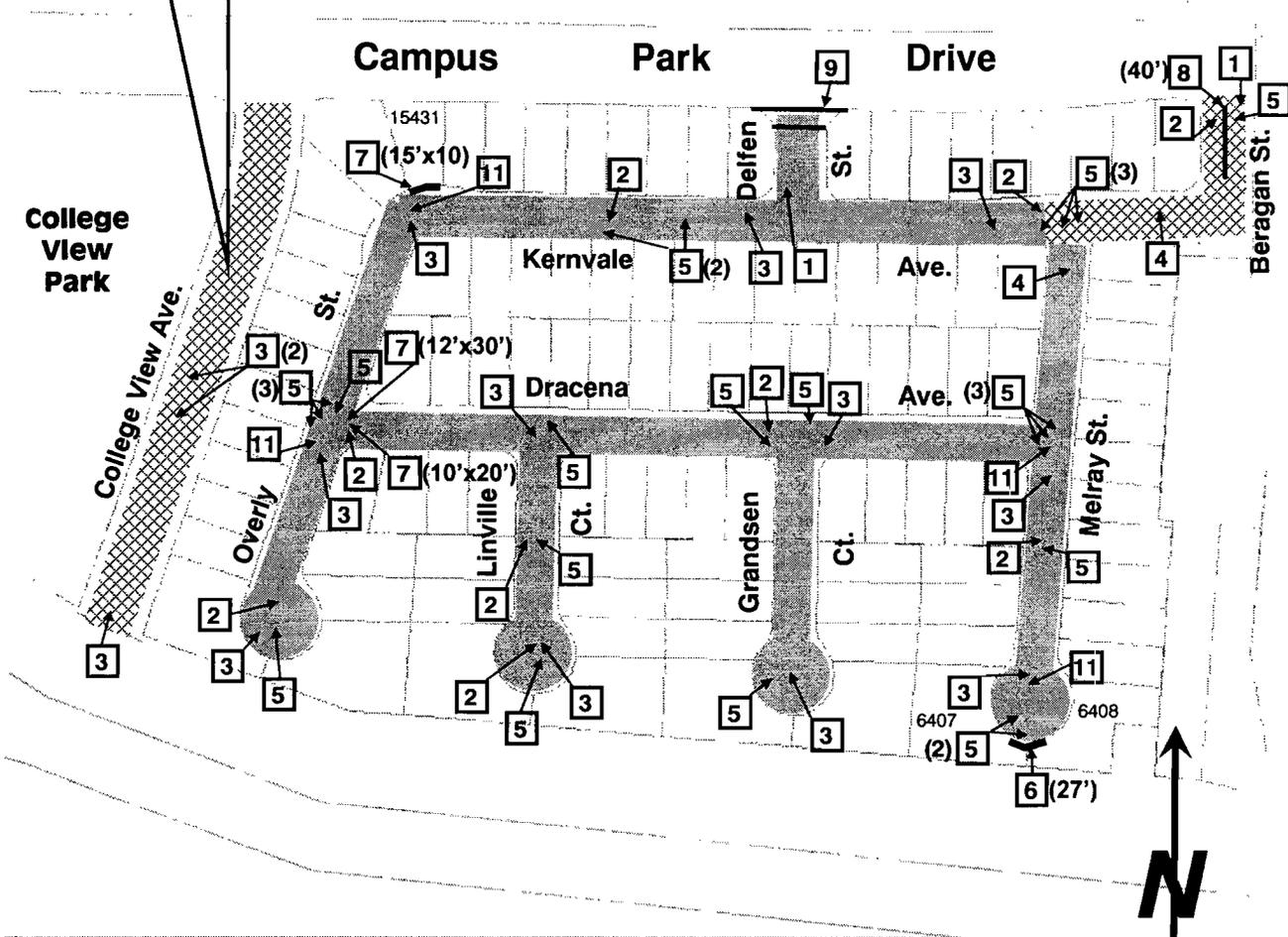


<b>LEGEND</b>		
ARAM	Slurry Seal Only	<b>4</b> Sewer Cleanout
<b>1</b> Stop Bar & Legend	<b>5</b> Valve Lid	<b>8</b> Std Pln A20A Detail 21
<b>2</b> Blue RPM (Hydrant Marker)	<b>6</b> Curb & Gutter R & R	<b>9</b> Std Pln A24E "X-Walk"
<b>3</b> Manhole Lid	<b>7</b> Asphalt R & R	<b>10</b> Std Pln A20D Detail 38A
		<b>11</b> Survey Monument

# MPK 08-02 -- 2009 Pavement Rehabilitation Project

## Moorpark Community College

SEE STRIPING FOR COLLEGE VIEW AVE. ON SHEET F-1A



118 FREEWAY



LEGEND		
ARAM	Slurry Seal Only	<b>4</b> Sewer Cleanout
<b>1</b> Stop Bar & Legend	<b>5</b> Valve Lid	<b>8</b> Std Pln A20A Detail 21
<b>2</b> Blue RPM (Hydrant Marker)	<b>6</b> Curb & Gutter R & R	<b>9</b> Std Pln A24E "X-Walk"
<b>3</b> Manhole Lid	<b>7</b> Asphalt R & R	<b>10</b> Std Pln A20D Detail 38A
		<b>11</b> Survey Monument

# MPK 08-02 -- 2009 Pavement Rehabilitation Project

## Moorpark Community College

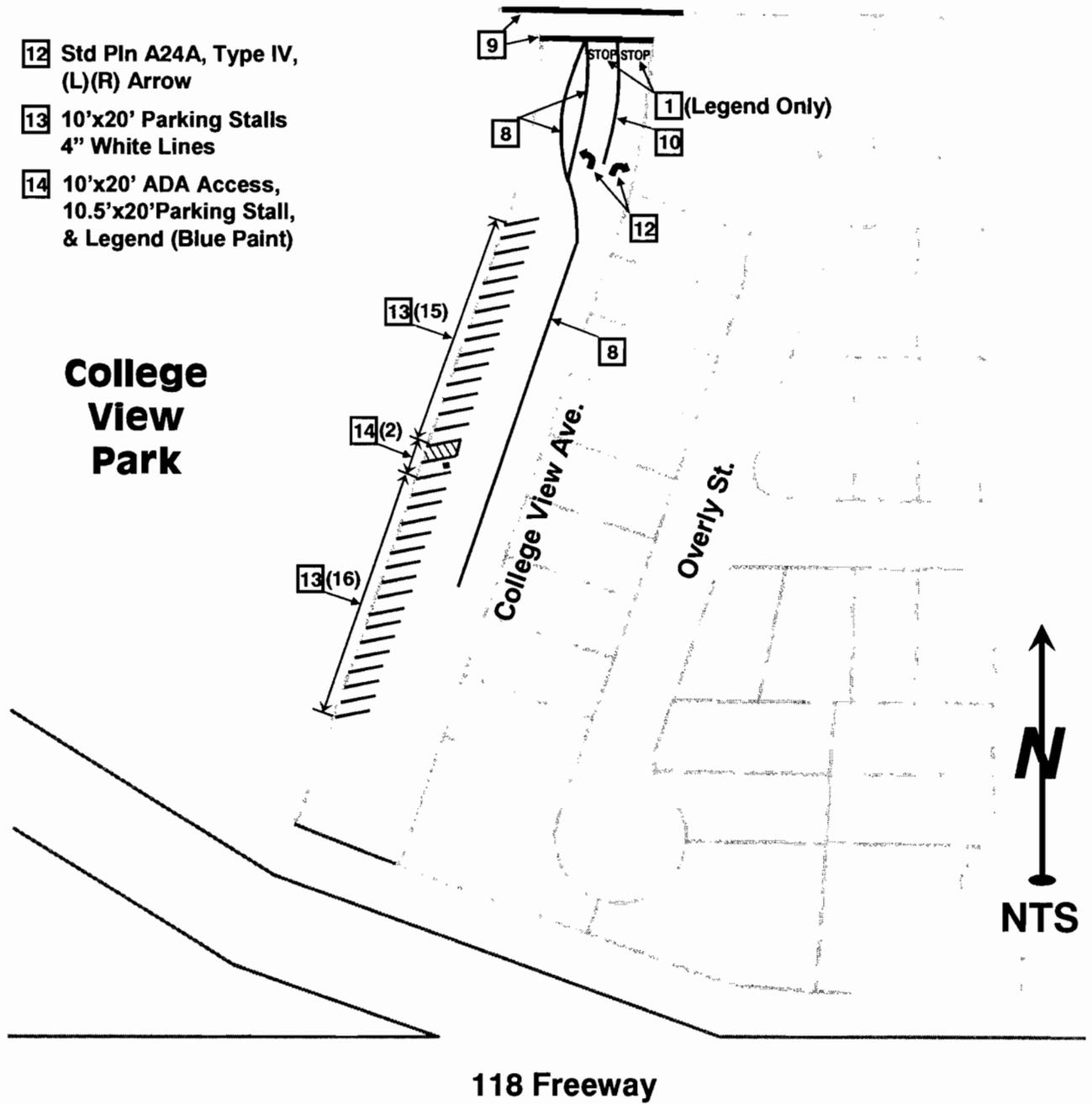
Campus

Park

Drive

- 12 Std Pln A24A, Type IV, (L)(R) Arrow
- 13 10'x20' Parking Stalls 4" White Lines
- 14 10'x20' ADA Access, 10.5'x20' Parking Stall, & Legend (Blue Paint)

**College View Park**

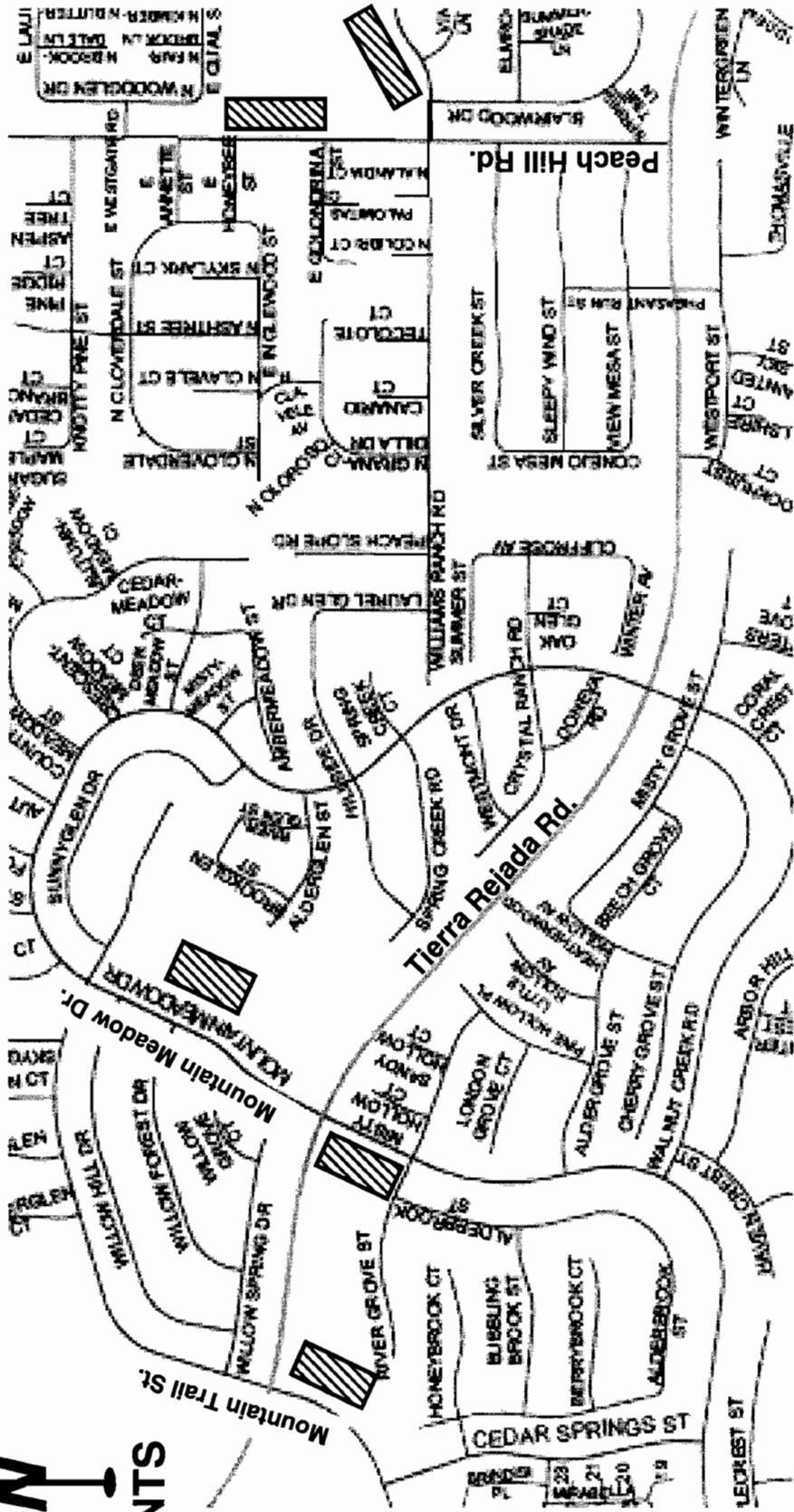


118 Freeway



<b>LEGEND</b>		
ARAM	Slurry Seal Only	4 Sewer Cleanout
1 Stop Bar & Legend	5 Valve Lid	8 Std Pln A20A Detail 21
2 Blue RPM (Hydrant Marker)	6 Curb & Gutter R & R	9 Std Pln A24E "X-Walk"
3 Manhole Lid	7 Asphalt R & R	10 Std Pln A20D Detail 38A
		11 Survey Monument

# MPK 08-02 -- 2009 Pavement Rehabilitation Project Parking Lot Map



 Slurry Seal & Restripe  
 City Park Parking Lot  
 5 Locations

2009 Pavement Rehabilitation Project  
 Schedule A  
 MPK 08-02

List of Streets		Map Pg. No.		Trash Day		ARAM		SLURRY		Pavement Quantities						Striping, Manholes & Valves							
Street	From	To	Map Pg. No.	Trash Day	ARAM	SLURRY	Dimension (L)	Dimension (W)	Culdesac (Dia)	SF	ELT (Type 2 Slurry)	SY (ARAM)	Stop Bar & Legend	Center Line	Crosswalk	Arrows	Manholes	Valves	Blue RPM	Curb & Gutter	R&R	AC R & R	
E. Amherst St.	E. Westwood St.	Princeton Ave.	A-2	T	X	X	1,059	40	0	42,360	--	4,707	4	0	0	0	4	9	3			60	
E. Amherst St.	Princeton Ave.	N. Amherst St.	B-2	T	X	X	113	40	0	4,520	--	502	1	0	0	0	0	0	1			15	
N. Amherst St.	Hartford St.	E. Stanford St.	B-2	T	X	X	739	36	0	26,604	--	2,956	0	273	0	0	3	4	2				
N. Auburn Cir.	E. Purdue St.	End (N)	A-1	T	X	X	525	32	77	21,454	--	2,384	0	0	0	0	2	3	2				
N. Auburn Cir.	E. Loyola St.	E. Purdue St.	A-1	T	X	X	277	36	0	9,972	--	1,108	1	0	0	0	1	0	0				
E. Baylor St.	N. Tulane Ave.	End (W)	A-1	T	X	X	102	32	77	7,918	--	880	0	0	0	0	1	0	1				
Beragan St.	Campus Pk. Dr.	Kernvale Ave.	D-2	M	X	X	142	40	0	5,680	4.4	--	1	40	0	0	0	1	1				
N. Berkeley Cir.	E. Westwood St.	E. Amherst St.	A-2	T	X	X	504	36	0	18,144	--	2,016	2	0	0	0	1	1	1				
N. Berkeley Cir.	E. Amherst St.	End (N)	A-2	T	X	X	389	32	77	17,102	--	1,900	1	0	0	0	2	2	2				
E. Cambridge St.	Campus Pk. Dr.	N. Westwood St.	A-1	T	X	X	799	36	0	28,764	--	3,196	1	0	0	0	6	4	3			25	
College View Ave.	Campus Pk. Dr.	End (S)	D-2	M	X	X	609	64	0	38,976	30.0	--	2	450	1	2	3	0	0				
N. Columbia Ave.	E. Amherst St.	E. Loyola St.	A-2	T	X	X	502	36	0	18,072	--	--	2	0	0	0	2	1	2				
Cornell Cir.	Hartford St.	End (N)	B-2	T	X	X	275	32	77	13,454	10.4	--	0	0	0	0	1	2	2				
N. Creighton Cir.	Hartford St.	End (N)	B-2	T	X	X	234	32	77	12,142	9.3	--	0	0	0	0	1	2	3				
E. Dartmouth Cir.	E. Westwood St.	End (E)	A-2	T	X	X	127	32	77	8,718	--	969	0	0	0	0	1	2	2			60	
Delfen St.	Campus Pk. Dr.	Kernvale Ave.	D-2	M	X	X	110	40	0	4,400	--	489	1	0	1	0	0	0	0				
Dracena Ave.	Overyly St.	Melray St.	D-2	M	X	X	779	36	0	28,044	--	3,116	0	0	0	0	2	3	2				
Duke St.	E. Stanford St.	End (S)	C-2	T	X	X	669	32	0	21,408	16.5	--	0	0	0	0	2	3	1			55	
Grandsen Ct.	Dracena Ave.	End (S)	D-2	M	X	X	204	36	77	11,998	--	1,333	0	0	0	0	1	0	1				
Hartford St.	N. Amherst St.	N. Harvard St.	B/C-2	T	X	X	1,255	40	0	50,200	--	5,578	0	0	0	0	5	9	3				
N. Harvard St.	E. Stanford St.	Hartford St.	C-2	T	X	X	626	40	0	25,040	--	2,782	0	0	0	0	1	2	2				
Kernvale Ave.	Overyly St.	Melray St.	D-2	M	X	X	700	36	0	25,200	--	2,800	0	0	0	0	3	3	2			150	
Kernvale Ave.	Melray St.	Beragan St.	D-2	M	X	X	200	36	0	7,200	5.5	--	0	0	0	0	3	3	0			150	
Linville Ct.	Dracena Ave.	End (S)	D-2	M	X	X	187	36	77	11,386	--	1,265	0	0	0	0	1	2	2				
E. Loyola St.	Campus Pk. Dr.	Open Channel	A-1	T	X	X	1,343	40	0	53,720	--	5,969	3	0	0	0	7	9	4				
Melray St.	Kernvale Ave.	End (S)	D-2	M	X	X	479	36	77	21,898	--	2,433	0	0	0	0	2	7	1			30	
Oxford Cir.	N. Berkeley Cir.	End (W)	A-2	T	X	X	195	32	77	10,894	--	1,210	0	0	0	0	1	2	1				
Overyly St.	Kernvale Ave.	End (S)	D-2	M	X	X	367	36	77	17,866	--	1,985	0	0	0	0	2	5	1			600	
N. Pepperdine Cir.	Hartford St.	End (N)	B-2	T	X	X	227	32	77	11,918	9.2	--	0	0	0	0	1	2	2				
E. Purdue St.	E. Westwood St.	N. Auburn Cir.	A-1	T	X	X	855	36	0	30,780	--	3,420	1	0	0	0	3	4	2				
Rand St.	E. Stanford St.	End (S)	C-2	T	X	X	663	32	0	21,216	16.3	--	0	0	0	0	2	3	2				
E. Rutgers Cir.	E. Westwood St.	End (E)	A-2	T	X	X	332	32	77	15,278	--	1,698	0	0	0	0	1	3	2				
E. Stanford St.	N. Amherst St.	Penn St.	B/C-2	T	X	X	1,952	36	0	70,272	--	7,808	1	0	0	0	7	15	6			175	265





## 2009 Pavement Rehabilitation Project Schedule C

MPK 08-02

List of Parking Lots	Quantities		Striping	
	SF	ELT (Type 2 Slurry)	Standard Parking Stall	Handicap Parking Stall
<b>Tierra Rejada Park</b>				
East Parking Lot	6,900	5.3	14	2
West Parking lot	16,000	12.3	30	3
<b>Mountain Meadows Park</b>				
	13,600	10.5	35	2
<b>Peach Hill Park</b>				
South Parking Lot	12,000	9.2	18	1
North Parking lot	14,000	10.8	29	1
	<b>Total</b>	<b>62,500</b>	<b>48</b>	<b>126</b>
	SF	ELT	EA	EA

2009 Pavement Rehabilitation		Manhole Adjusting Contractors, Inc.		Engineer's Estimate		International Surfacing Systems	
Owner: City of Moorpark		9600 Beverly Rd		Pico Rivera, CA 90660-2135		PO Box 4770	
Bid Opening: 08/25/09		US		US		Modesto, CA 95352	
		Bidder Status: Valid		Bidder Status: Valid		Bidder Status: Valid	
* marks an allowance							
<b>Bid Schedule A</b>							
Item #	Item Code	Item Description	Quantity	Unit of Measure	Unit Price	Item Total	Item Total
1A		TRAFFIC CONTROL	1	LS	\$15,000.00	\$15,000.00	\$15,754.00
2A		STORMWATER POLLUTION CONTROL	1	LS	\$6,000.00	\$6,000.00	\$2,000.00
3A		PAVEMENT SURFACE PREPARATION	1	LS	\$15,000.00	\$15,000.00	\$39,000.00
4A		CAPE SEAL (ARAM)	81000	SY	\$6.50	\$528,500.00	\$675,540.00
5A		SLURRY (TYPE II)	115	ELT	\$180.00	\$20,700.00	\$48,805.00
6A		REMOVE & REPLACE 4" ASPHALT	1700	SF	\$5.00	\$8,500.00	\$20,485.00
7A		REMOVE & REPLACE CONCRETE CURB	600	LF	\$20.00	\$12,000.00	\$36,090.00
8A		STRIPING AND PAVEMENT MARKERS	1	LS	\$20,000.00	\$20,000.00	\$8,900.00
9A		ADJUST MANHOLE FRAME & COVER	90	EA	\$350.00	\$31,500.00	\$27,900.00
10A		ADJUST VALVE COVER	125	EA	\$250.00	\$31,250.00	\$36,750.00
11A		RELEASE ON CONTRACT	1	LS	\$1.00	\$1.00	\$1.00
<b>Bid List Total</b>						<b>\$686,451.00</b>	<b>\$803,811.00</b>
<b>Bid Schedule B</b>							
Item #	Item Code	Item Description	Quantity	Unit of Measure	Unit Price	Item Total	Item Total
1B		TRAFFIC CONTROL	1	LS	\$10,000.00	\$10,000.00	\$2,400.00
2B		STORMWATER POLLUTION CONTROL	1	LS	\$5,000.00	\$5,000.00	\$1,200.00
3B		PAVEMENT SURFACE PREPARATION	1	LS	\$10,000.00	\$10,000.00	\$21,300.00
4B		CAPE SEAL (ARAM)	36000	SY	\$6.50	\$234,000.00	\$291,600.00
5B		SLURRY (TYPE II)	95	ELT	\$180.00	\$17,100.00	\$21,850.00
6B		REMOVE & REPLACE 4" ASPHALT	800	SF	\$5.00	\$4,000.00	\$12,35
7B		REMOVE & REPLACE CONCRETE CURB	100	LF	\$20.00	\$2,000.00	\$7,040
8B		STRIPING AND PAVEMENT MARKERS	1	LS	\$15,000.00	\$15,000.00	\$3,600.00
9B		ADJUST MANHOLE FRAME & COVER	55	EA	\$350.00	\$19,250.00	\$16,500.00
10B		ADJUST VALVE COVER	85	EA	\$250.00	\$21,250.00	\$22,950.00
<b>Bid List Total</b>						<b>\$337,600.00</b>	<b>\$398,600.00</b>
<b>Bid Schedule C</b>							
Item #	Item Code	Item Description	Quantity	Unit of Measure	Unit Price	Item Total	Item Total
1C		TRAFFIC CONTROL	1	LS	\$2,000.00	\$2,000.00	\$800.00
2C		STORMWATER POLLUTION CONTROL	1	LS	\$1,000.00	\$1,000.00	\$1,000.00
3C		PAVEMENT SURFACE PREPARATION	1	LS	\$5,000.00	\$5,000.00	\$7,250.00
5C		SLURRY (TYPE II)	50	ELT	\$180.00	\$9,000.00	\$11,500.00
6C		REMOVE & REPLACE 4" ASPHALT	200	SF	\$5.00	\$1,000.00	\$4,550.00
8C		STRIPING AND PAVEMENT MARKERS	1	LS	\$12,000.00	\$12,000.00	\$4,400.00
<b>Bid List Total</b>						<b>\$30,000.00</b>	<b>\$29,540.00</b>
Contingency (10%)							
<b>Total Bid Amount</b>						<b>\$1,159,456.10</b>	<b>\$1,232,151.00</b>
<b>Listed Subs</b>							
		Berry General Engineering Contractors, Inc.		P O Box 1457		Berry General Engineering Contractors, Inc.	
		Ventura, CA 93002		Ventura, CA 93002		Ventura, CA 93002	
		License No: 400577A		License No: 400577A		License No: 400577A	
		6A, B & C, 7A & B		6A, B & C, 7A & B		A/C Curb & Gutter	
		Calstripe		375 South "G" St		Dial Construction, Inc	
		San Bernardino, CA 92410		San Bernardino, CA 92410		Oxnard, CA 93030	
		License No: 685387A		License No: 685387A		License No: 397464A	
		8A, B & C		8A, B & C		Iron Raising	
		Pavement Coating Company		10240 San Seavine way		Rubberized Crack Filler Sealant, Inc.	
		Mira Loma, CA 91752		Mira Loma, CA 91752		800 E Walnut Ave	
		License No: 303609A		License No: 303609A		Fullerton, CA 92831	
		Slurry Seal		Slurry Seal		Crack Seal	
		Rubberized Crack Filler Sealant, Inc.		800 E Walnut Ave		Stern Dahl Enterprises	
		Fullerton, CA 92831		Fullerton, CA 92831		11861 Branford St	
		License No: 484758 C32		License No: 484758 C32		Sun Valley, CA 91352	
		3A, B & C		3A, B & C		License No: 421823A	
						Stripping	
		Valley Slurry Seal Company		3785 Channel Drive		Valley Slurry Seal Company	
		West Sacramento, CA 95691		West Sacramento, CA 95691		West Sacramento, CA 95691	
		License No: 293727A		License No: 293727A		License No: 293727A	
		Slurry Seal		Slurry Seal		Slurry Seal	



**FILED**  
Ventura County  
County Clerk and Recorder

AUG 13 2009  
JAMES B. BECKER  
Assistant County Clerk and Recorder  
By [Signature], Deputy

**NOTICE OF EXEMPTION**  
**CITY OF MOORPARK**  
799 MOORPARK AVENUE  
MOORPARK, CA 93021  
(805) 517-6200

TO:  X  County Clerk \_\_\_\_\_ State Clearinghouse  
County of Ventura Office of Planning and Research  
800 S. Victoria Ave. Loc.#1210 1400 Tenth Street, Room 121  
Ventura, CA 93009-1210 Sacramento, CA 95814

Submission of this form is optional. Local agencies or private individuals may file this form with the County Clerk (Public Resources Code Sec. 21152.b). Filing of this notice starts a 35-day statute of limitations on court challenges to project approval (Public Resources Code Sec. 21167.d.). Failure to file this notice results in the statute of limitations being extended to 180 days.

Project Title: 2009 Pavement Rehabilitation Project

Project Type: \_\_\_\_\_ Private Project  X  Public Project

Project Location: Various streets throughout the City of Moorpark

City: Moorpark Zip Code: 93021 County: Ventura

Description of Nature, Purpose and Beneficiaries of Project: Ongoing maintenance of paved streets including cape seal and slurry seal.

Name of Public Agency Approving Project: City of Moorpark Date of Approval: July 15, 2009

Name of Person/Agency Carrying Out Project: Yugal Lall, P.E., Director of Public Works and City Engineer

Exempt Status (check one):  
\_\_\_\_\_ Ministerial (Sec. 15073)  
\_\_\_\_\_ Declared Emergency (Sec. 17071 a.)  
\_\_\_\_\_ Emergency Project (Sec. 15071.b. and c.)  
 X  Categorical Exemption (state type and section)  
\_\_\_\_\_ General Rule Exemption

Section  15301  Class  1  Exemption

Reasons Why Project is Exempt: Involves ongoing maintenance of existing public facilities, without expansion or other Alterations.

Contact Person: Yugal Lall, P.E. Phone: (805) 517-6255 Ext.:

If filed by Applicant:

- 1. Attach certified document of exemption finding.
- 2. Has a Notice of Exemption been filed by the public agency approving the project? Yes \_\_\_\_\_ No \_\_\_\_\_

Date Filed: July 16, 2009 Signature: [Signature] Title: Planning Director  
David A. Bobardt

AUG 13 2009  
POSTED  
JAMES B. BECKER  
Assistant County Clerk and Recorder  
By: \_\_\_\_\_, Deputy

RESOLUTION NO. 2009 - \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, AMENDING THE FISCAL YEAR 2009/10 BUDGET TO REVISE THE APPROPRIATIONS AND BUDGET AMOUNTS FOR PROJECT 8002: 2009 PAVEMENT REHABILITATION PROJECT [PARK MAINTENANCE FUND (2400); TRAFFIC CONGESTION RELIEF FUND (2610)]

WHEREAS, on July 1, 2009, the City Council adopted the budget for Fiscal Year 2009/10; and

WHEREAS, a staff report has been presented to the City Council requesting a budget amendment in the aggregate amount of \$348,000.00; and

WHEREAS, Exhibit "A" hereof describes said budget amendments and their resultant impacts to the budget line items.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOORPARK DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. That a Budget Amendment in the aggregate increase of \$348,000.00 as more particularly described in Exhibit "A", is hereby approved.

SECTION 2. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED AND ADOPTED this 7<sup>th</sup> day of October, 2009.

\_\_\_\_\_  
Janice S. Parvin, Mayor

ATTEST:

\_\_\_\_\_  
Deborah S. Traffenstedt, City Clerk

Attachment: Exhibit "A" – Appropriation and Budget Detail

EXHIBIT A

BUDGET AMENDMENT FOR  
PARK MAINTENANCE AND TRAFFIC CONGESTION RELIEF FUNDS  
TO INCREASE APPROPRIATIONS FOR PROJECT 8002  
2009 PAVEMENT REHABILITATION PROJECT  
FY 2009/10

FUND BALANCE ALLOCATION:

Fund Title	Fund-Account Number	Amount
PARK MAINTENANCE FUND	2400-5500	\$ 33,000.00
TRAFFIC CONGESTION RELIEF FUND	2610-5500	\$ 315,000.00
Total		\$ 348,000.00

EXPENDITURE APPROPRIATION:

Account Number	Current Budget	Revision	Amended Budget
2400-8310-8002-9640	\$ -	\$ 33,000.00	\$ 33,000.00
2610-8310-8002-9640	\$ -	\$ 315,000.00	\$ 315,000.00
2611-8310-8002-9640	\$ 581,448.00	\$ (50,000.00)	\$ 531,448.00
2611-8310-8002-9650	\$ -	\$ 50,000.00	\$ 50,000.00
	\$ -	\$ -	\$ -
Total	\$ 581,448.00	\$ 348,000.00	\$ 929,448.00

Finance Approval: \_\_\_\_\_



**AGREEMENT BETWEEN THE CITY OF MOORPARK AND  
MANHOLE ADJUSTING CONTRACTORS, INC., FOR  
2009 PAVEMENT REHABILITATION PROJECT  
SPECIFICATION NO. MPK 08-02**

**THIS AGREEMENT**, is made and effective as of \_\_\_\_\_ day of \_\_\_\_\_, 2009, between the City of Moorpark, a municipal Corporation ("City") and Manhole Adjusting Contractors, Inc., a 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; 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**, Contractor has submitted to City a Proposal dated August 25, 2009, which is attached hereto as Exhibit B; and.

**WHEREAS**, the City Council of the City of Moorpark at a meeting held on the 2<sup>nd</sup> day of September, 2009, authorized the City Manager to enter into this Agreement after public bidding in accordance with California Public 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 pursuant to Article 6 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 Proposal, dated August 25, 2009, 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 Scope of Services is modified by this Agreement, or in the event there is a conflict between the provisions of said Scope of Services 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.

Compensation for the services to be performed by Contractor shall be in accordance with Schedule of Work and Prices of Exhibit B, attached hereto and

incorporated herein by this reference as though set forth in full. Compensation shall not exceed the rates or total contract value (\$833,351.00) as stated in Exhibit B, attached hereto and incorporated herein by this reference as though set forth in full, without the written authorization of the City Manager of the City of Moorpark. Payment by City to Contractor shall be in accordance with the provisions of Article 5, of this Agreement.

### 3. 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.

### 4. 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 Corcoran, 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 Dave Klotzle, Assistant City Engineer or his designee.

### 5. 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 eight hundred thirty-three thousand, three hundred fifty-one dollars (\$833,351.00) 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.

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.

## 6. TERMINATION OR SUSPENSION WITHOUT CAUSE

The City may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the Contractor at least ten (10) days prior written notice. Upon receipt of said notice, the Contractor shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the City suspends or terminates a portion of this Agreement such suspension or termination shall not make void or invalidate the remainder of this Agreement.

The Contractor may terminate this Agreement only by providing City with written notice no less than thirty (30) days in advance of such termination. In the event of such termination or suspension, Contractor shall be compensated for such services up to the date of termination or suspension. Such compensation for work in progress shall be prorated as to the percentage of progress completed at the date of termination or suspension.

In the event this Agreement is terminated pursuant to this Section, the City shall pay to Contractor the actual value of the work performed up to the time of termination, provided that the work performed is of value to the City. Upon termination of the Agreement pursuant to this Section, the Contractor will submit an invoice to the City pursuant to Article 5 herein.

## 7. DEFAULT OF CONTRACTOR

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.

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 thirty (30) 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.

## 8. LIQUIDATED DAMAGES

If the Contractor fails to complete the work, or any portion thereof, within the time period required by Article 2 herein 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 five hundred dollars (\$500.00) 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 contract. [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.

## 9. 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.

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.

## 10. INDEMNIFICATION AND HOLD HARMLESS

Contractor hereby assumes liability for and agrees to defend (at Indemnitees' option), indemnify, protect and hold harmless City and its Project Contractors, and 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 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.

#### 11. 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.

#### 12. 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.

#### 13. 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 officers and employees, shall not be liable at law or in equity occasioned by failure of the Contractor to comply with this Section.

#### 14. 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]

#### 15. 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.

#### 16. 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.

#### 17. 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 Sub-Contractor. 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 Sub-Contractors 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.

#### 18. 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, CA 93021

To: John Corcoran  
Manhole Adjusting Contractors, Inc.  
9500 Beverly Road  
Pico Rivera, CA 90660

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.

#### 19. 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 of Moorpark in order that proper steps may be taken to have the change reflected in the Contract Documents.

#### 20. 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.

#### 21. 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.

## 22. 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.

## 23. COST RECOVERY

In the event any action, suit or proceeding is brought for the enforcement of, or the declaration of any right or obligation pursuant to this Agreement or as a result of any alleged breach of any provision of this Agreement, the prevailing party shall be entitled to recover its costs and expenses, including reasonable attorney's fees, from the losing party, and any judgment or decree rendered in such a proceeding shall include an award thereof.

## 24. ARBITRATION

Cases involving a dispute between City and Contractor may be decided by an arbitrator if both sides agree in writing, with costs proportional to the judgment of the arbitrator.

## 25. 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.

## 26. 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.

## 27. 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.

28. 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 of five hundred dollars (\$500.00) per day 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.

29. 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.

30. 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.

31. 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

MANHOLE ADJUSTING CONTRACTORS

By: \_\_\_\_\_  
Steven Kueny, City Manager

By: \_\_\_\_\_  
John Corcoran

Attest:

\_\_\_\_\_  
Deborah S. Traffenstedt, City Clerk

Its: President  
\_\_\_\_\_ Title

## 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 \$5,000,000 per occurrence for all covered losses and no less than \$5,000,000 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.

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 agrees 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 prior to 1992. 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, at the option of City, 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 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 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 that 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 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.

12. 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.

13. 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.

14. 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.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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.