

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: Honorable City Council

FROM: Hugh R Riley, Assistant City Manager 

DATE: April 8, 2014 (CC Meeting of 04/16/14)

SUBJECT: Consider Agreement for Professional Engineering Services with Linscott, Law & Greenspan, Engineers for the Moorpark Civic Center Campus Project

BACKGROUND

The preparation of an Environmental Impact Report (EIR) for the Moorpark Civic Center Campus Project requires extensive services by a Traffic Engineer. On February 11, 2011, KOA Corporation, Planning and Engineering (KOA) was retained through the City's EIR Consultant to perform these services and a report was submitted in September 2011. However, after the initial Traffic Impact Analysis for the project was completed by KOA the City learned that KOA had performed services for the County of Ventura contrary to the provisions of their agreement for the Moorpark Project. The City then terminated its contract with KOA for the Civic Center and other projects.

In June 2013, Linscott, Law & Greenspan Engineers (LLGE) was retained by the City's Attorney for work relating to the City's appeal of the Grimes Rock Conditional Use Permit by Ventura County. Because of this firm's familiarity with the City's traffic issues and their working relationship with the EIR Consultants for the Civic Center Project, Staff obtained a proposal from LLGE to continue and complete the services needed for the Civic Center EIR.

DISCUSSION

On April 8, 2014, LLGE submitted a proposal to the City to provide Traffic Engineering Consulting Services Associated with the Civic Center EIR. The proposal involves thirteen Tasks, Traffic Counts and mileage expenses for a total estimated cost of at \$77,800. Staff has prepared an Agreement for Professional Services with LLGE for the City Council's consideration.

FISCAL IMPACT

Sufficient funds to complete the work under this agreement are included in the current Fiscal Year 2013/14 Capital Improvement Budget. Appropriate funding will be included in subsequent fiscal years as needed.

Honorable City Council
April 16, 2014
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STAFF RECOMMENDATION

Authorize the City Manager to sign the Professional Services Agreement with Linscott, Law & Greenspan Engineers in an amount not to exceed \$77,800 subject to final language approval by the City Manager and the City Attorney.

Attachment: Professional Services Agreement

AGREEMENT BETWEEN THE CITY OF MOORPARK AND LG2WB ENGINEERS,
INC. dba LINSCOTT, LAW & GREENSPAN, ENGINEERS FOR PROFESSIONAL
ENGINEERING SERVICES FOR THE MOORPARK CIVIC CENTER CAMPUS
PROJECT NO. 2007

THIS AGREEMENT, is made and effective as of this ____ day of _____, 2014, between the City of Moorpark, a municipal corporation ("City") and LG2WB Engineers, Inc., a California Corporation dba Linscott, Law & Greenspan, Engineers ("Consultant"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

WHEREAS, City has the need for professional engineering services relating to Moorpark Civic Center Campus Project, 2007; and

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

WHEREAS, Consultant has submitted to City a Proposal dated April 8, 2014, which is attached hereto as Exhibit B.

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

1. TERM

The term of this Agreement shall be from the date of execution and continue in effect until the services are completed, unless this Agreement is terminated or suspended pursuant to this Agreement.

2. SCOPE OF SERVICES

City does hereby retain Consultant, as an independent contractor, in a contractual capacity to provide professional engineering services, as set forth in Exhibit B. In the event there is a conflict between the provisions of Exhibit B and this Agreement, the language contained in this Agreement shall take precedence.

Compensation for the services to be performed by Consultant shall be in accordance with Exhibit C, including Tasks 9 and 10 (described in Exhibits B and C as optional). Compensation shall not exceed the rates or total contract value of seventy-seven thousand eight hundred dollars (\$77,800) as stated in Section 5 without a written Amendment to this Agreement executed by both parties. Payment by City to Consultant shall be in accordance with the provisions of this Agreement.

3. PERFORMANCE

Consultant shall at all times faithfully, competently and to the best of their ability, experience, standard of care, and talent, perform all tasks described herein. Consultant shall employ, at a minimum, generally accepted standards and practices utilized by

persons engaged in providing similar services as are required of Consultant hereunder in meeting its obligations under this Agreement.

4. MANAGEMENT

The individual directly responsible for Consultant's overall performance of the Agreement provisions herein above set forth and to serve as principal liaison between City and Consultant shall be David S. Shender, P.E., 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 Consultant and City, shall be the City Manager or the City Manager's designee.

5. PAYMENT

Taxpayer ID or Social Security numbers must be provided on an IRS W-9 form before payments may be made to vendors.

The City agrees to pay Consultant monthly, in accordance with the payment rates and terms of payment as set forth in Exhibit C, based upon actual time spent on the above tasks. This amount shall not exceed seventy-seven thousand eight hundred dollars (\$77,800) for the total term of this Agreement unless additional payment is approved as provided in this Agreement.

Consultant 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. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by City Manager and Consultant at the time City's written authorization is given to Consultant for the performance of said services.

Consultant 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 Consultant's fees or expenses it shall give written notice to Consultant within thirty (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 Consultant at least ten (10) days prior written notice. Upon receipt of said notice, the Consultant 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 Consultant 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 this Agreement is terminated or suspended pursuant to this Section, the City shall pay to Consultant the actual value of the work performed up to the time of termination or suspension, provided that the work performed is of value to the City. Upon termination or suspension of the Agreement pursuant to this Section, the Consultant will submit an invoice to the City pursuant to this Agreement.

7. DEFAULT OF CONSULTANT

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

If the City Manager or his/her designee determines that the Consultant 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 Consultant a written notice of the default. The Consultant shall have ten (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that the Consultant 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. OWNERSHIP OF DOCUMENTS

Consultant 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. Consultant 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. Consultant shall provide free access to the representatives of City or the City's 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 three (3) years after receipt of final payment.

Upon completion of, or in the event of termination or suspension without cause 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 Consultant. With respect to computer files, Consultant shall make available to the City, at the Consultant'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.

9. INDEMNIFICATION AND HOLD HARMLESS

Indemnity for professional liability: When the law establishes a professional standard of care for Consultant's Services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend and hold harmless City and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, costs and expenses, including legal counsel's fees and costs to the extent same are caused in whole or in part by any negligent or wrongful act, error or omission of Consultant, its officers, agents, employees or subconsultants (or any agency or individual that Consultant shall bear the legal liability thereof) in the performance of professional services under this Agreement.

Indemnity for other than professional liability: Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, defend and hold harmless City, and any and all of its employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including legal counsel fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or agency for which Consultant is legally liable, including but not limited to officers, agents, employees or subcontractors of Consultant.

Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Section from each and every subconsultant, or any other person or entity involved by, for, with, or on behalf of Consultant in the performance of this Agreement. In the event Consultant fails to obtain such indemnity obligations from others as required here, Consultant 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 Consultant and shall survive the termination of this Agreement or this Section.

City does not and shall not waive any rights that it may have against Consultant by reason of this Section, because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. The hold harmless and indemnification provisions shall apply regardless of whether or not said

insurance policies are determined to be applicable to any losses, liabilities, damages, costs, and expenses described in this Section.

10. INSURANCE

Consultant 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.

11. INDEPENDENT CONSULTANT

Consultant 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 Consultant shall at all times be under Consultant's exclusive direction and control. Neither City nor any of its officers, employees, or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents, except as set forth in this Agreement. Consultant 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 or employees, or agents of the City except as set forth in this Agreement. Consultant 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 Consultant in connection with the performance of this Agreement. Except for the fees paid to Consultant as provided in the Agreement, City shall not pay salaries, wages, or other compensation to Consultant for performing services hereunder for City. City shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services hereunder.

12. LEGAL RESPONSIBILITIES

The Consultant shall keep itself informed of local, 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 Consultant 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 Consultant to comply with this Section.

13. ANTI DISCRIMINATION

Neither the Consultant, nor any subconsultant under the Consultant, 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 Consultant shall have responsibility for compliance with this Section [Labor Code Section 1735].

14. UNDUE INFLUENCE

Consultant 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 Consultant, or any officer, employee, or agent of Consultant, 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.

15. 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 Services 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 Services performed under this Agreement.

16. CONFLICT OF INTEREST

Consultant 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. Consultant further covenants that in the performance of this Agreement, they shall employ no person having such interest as an officer, employee, agent, or subcontractor. Consultant further covenants that if Consultant has contracted with or is performing any services directly or indirectly, with developer(s) and /or developer's consultants and /or property owner(s) and /or firm(s) and /or partnerships 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, Consultant shall immediately notify the City Engineer/Public Works Director, in writing, informing him /her of the nature of the contract. The City Engineer/Public Works Director, in consultation with the City Manager, shall determine whether potential conflict exists.

17. 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: David S. Shender, P.E.
Principal
Linscott, Law & Greenspan Engineers
17885 Von Kaman Avenue, Suite 500
Irvine, California 92618

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.

18. CHANGE IN NAME

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

19. ASSIGNMENT

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

20. LICENSES

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

21. 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 Consultant 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.

22. 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 attorneys' fees, from the losing party, and any judgment or decree rendered in such a proceeding shall include an award thereof.

23. ARBITRATION

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

24. ENTIRE AGREEMENT

This Agreement and the Exhibits attached hereto contain 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.

25. 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.

26. AMENDMENTS

Any amendment, modification, or variation from the terms of this Agreement shall be in writing and shall be effective only upon approval by both parties to this Agreement.

27. PRECEDENCE

In the event of conflict, the requirements of the City's Request for Proposal and this Agreement shall take precedence over those contained in the Consultant's Proposal.

28. 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.

29. 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.

30. AUTHORITY TO EXECUTE

The person or persons executing this Agreement on behalf of the Consultant warrants and represents that he/she has the authority to execute this Agreement on behalf of the Consultant and has the authority to bind Consultant 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

Linscott, Law & Greenspan Engineers

Steven Kueny, City Manager

David S. Shender, P.E., Principal

Attest:

Maureen Benson, City Clerk

Exhibit A

INSURANCE REQUIREMENTS

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

Consultant shall provide the following types and amounts of insurance:

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

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

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

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

Excess or Umbrella Liability Insurance (Over Primary) if used to meet limit requirements, shall provide coverage at least as broad as specified for the underlying coverages. Coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. Policy shall contain a provision obligating insurer at

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

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

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

1. Consultant agrees to have its insurer endorse the third party general liability coverage required herein to include as additional insureds the City, its officials, employees, and agents, using standard ISO endorsement CG 2010 with an edition prior to 1992. Consultant also agrees to require all contractors and subcontractors to do likewise.
2. No liability insurance coverage provided to comply with this Agreement shall prohibit Consultant, or Consultant's employees, or agents, from waiving the right to subrogation prior to a loss. Consultant agrees to waive subrogation rights against the City regardless of the applicability of any insurance proceeds, and to require all contractors and subcontractors to do likewise.
3. All insurance coverage and limits provided by Contractor and available or applicable to this Agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to the City or its operation limits the application of such insurance coverage.
4. None of the coverages required herein will be in compliance with these requirements if they include limiting endorsement of any kind that has not been first submitted to the City and approved in writing.
5. No liability policy shall contain any provision or definition that would serve to eliminate so-called "third party action over" claims, including any exclusion for bodily injury to an employee of the insured or of any contractor or subcontractor.
6. All coverage types and limits required are subject to approval, modification, and additional requirements by the City, as the need arises. Consultant shall not make any reductions in scope of coverage (e.g. elimination of contractual liability or reduction of discovery period) that may affect the City's protection without the City's prior written consent.
7. Proof of compliance with these insurance requirements, consisting of certificates of insurance evidencing all of the coverages required and an additional insured

endorsement to Consultant's general liability policy, shall be delivered to city at or prior to the execution of this Agreement. In the event such proof of any insurance is not delivered as required, or in the event such insurance is canceled or reduced at any time and no replacement coverage is provided, the City has the right, but not the duty, to obtain any insurance it deems necessary to protect its interests under this or any other Agreement and to pay the premium. Any premium so paid by the City shall be charged to and promptly paid by Consultant or deducted from sums due Consultant, at the City's option.

8. Certificate(s) are to reflect that the insurer will provide thirty (30) days notice to the City of any cancellation or reduction of coverage. Consultant agrees to require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation or reduction of coverage imposes no obligation, or that any party will "endeavor" (as opposed to being required) to comply with the requirements of the certificate.
9. It is acknowledged by the parties of this Agreement that all insurance coverage required to be provided by Consultant or any subcontractor, is intended to apply first and on a primary, non-contributing basis in relation to any other insurance or self-insurance available to the City.
10. Consultant agrees to ensure that subcontractors, and any other party involved with the Work who is brought onto or involved in the Work by Consultant, provide the same minimum insurance required of Consultant. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Consultant agrees that upon request, all agreements with subcontractors and others engaged in the Work will be submitted to the City for review.
11. Consultant agrees not to self-insure or to use any self-insured retentions or deductibles on any portion of the insurance required herein and further agrees that it will not allow any contractor, subcontractor, Architect, Engineer, or other entity or person in any way involved in the performance of Work contemplated by this Agreement to self-insure its obligations to the City. If Consultant's existing coverage includes a deductible or self-insured retention, the deductible or self-insured retention must be declared to the City. At that time, the City shall review options with the Consultant, which may include reduction or elimination of the deductible or self-insured retention, substitution of other coverage, or other solutions.
12. The City reserves the right at any time during the term of the Agreement to change the amounts and types of insurance required by giving the Consultant ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the Consultant, the City will negotiate additional compensation proportional to the increased benefit to the City.
13. For purposes of applying insurance coverage only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any

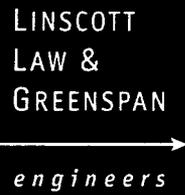
steps that can be deemed to be in furtherance of or towards performance of this Agreement.

14. Consultant acknowledges and agrees that any actual or alleged failure on the part of the City to inform Consultant of non-compliance with an insurance requirement in no way imposes any additional obligations to the City nor does it waive any rights hereunder in this or any other regard.
15. Consultant will renew the required coverage annually as long as the City, or its employees or agents face an exposure from operations of any type pursuant to this Agreement. This obligation applies whether or not the Agreement is canceled or terminated for any reason. Termination of this obligation is not effective until the City executes a written statement to that effect.
16. Consultant shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Proof that such coverage has been ordered shall be submitted prior to expiration. A coverage binder or letter from Consultant's insurance agent to this effect is acceptable. A certificate of insurance and/or additional insured endorsement as required in these specifications applicable to the renewing or new coverage must be provided to the City within five days of the expiration of coverage.
17. The provisions of any Workers' Compensation or similar act will not limit the obligations of Consultant under this Agreement. Consultant expressly agrees not to use any statutory immunity defenses under such laws with respect to the City, its employees, officials and agents.
18. Requirements of specific coverage features or limits contained in this section are not intended as limitations on coverage, limits, or other requirements nor as a waiver of any coverage normally provided by any given policy. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue, and is not intended by any party or insured to be limiting or all-inclusive.
19. These insurance requirements are intended to be separate and distinct from any other provision in this Agreement and are intended by the parties here to be interpreted as such.
20. The requirements in this section supersede all other sections and provisions of this Agreement to the extent that any other section or provision conflicts or impairs the provisions of this section.
21. Consultant agrees to be responsible for ensuring that no contract used by any party involved in any way with the Work reserves the right to charge the City or Consultant for the cost of additional insurance coverage required by this Agreement. Any such provisions are to be deleted with reference to the City. It is not the intent of the City to reimburse any third party for the cost of complying

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

22. Consultant agrees to provide immediate notice to City of any claim or loss against Consultant arising out of the work performed under this Agreement. The City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve the City.

EXHIBIT B



April 8, 2014

Mr. Hugh Riley
Assistant City Manager
City of Moorpark
799 Moorpark Avenue
Moorpark, California 93021

LLG Reference: P5-14-0018-1

Subject: Revised Proposal to Provide Traffic Engineering Consulting Services Associated with the Moorpark Civic Center Campus Project
City of Moorpark, California

Engineers & Planners
Traffic
Transportation
Parking

Linscott, Law & Greenspan, Engineers
20931 Burbank Boulevard
Suite C
Woodland Hills, CA 91367
818.835.8648 T
818.835.8649 F
www.llgengineers.com

Pasadena
Irvine
San Diego
Woodland Hills

Dear Mr. Riley:

Linscott, Law & Greenspan, Engineers (LLG) is pleased to submit this *revised* proposal to provide traffic engineering consulting services associated with the proposed Moorpark Civic Center Campus project. We understand that an updated traffic impact study will be required in conjunction with an Environmental Impact Report (EIR) to be prepared for the Civic Center project. This proposal supersedes our prior letter dated March 21, 2014 based on feedback received from the project team regarding our proposed Scope of Work.

Based on the information provided by your office, we understand the project site is located west of the intersection of Moorpark Avenue/High Street and comprises approximately 16 acres of property. The project boundaries are generally as follows: Casey Road to the north, undeveloped land to the west, Moorpark Avenue to the east, and High Street to the south. Additionally, the Tanner Building (northwest corner of Moorpark Avenue/High Street) and the proposed widening of Moorpark Avenue (SR-23) will be included as part of the project description. Furthermore, the proposed widening of Moorpark Avenue will need to be included in an amendment to the Circulation Element of the General Plan.

This proposal letter outlines our proposed Scope of Work to prepare a traffic impact study for the proposed project in accordance with the City of Moorpark's analysis methodology and significance criteria. The following Scope of Work was developed based on the prior KOA traffic study prepared for the Civic Center project, our coordination with you and other project team members, and our prior City of Moorpark traffic study experience. Please note that following receipt of an authorization to proceed, we will confirm the traffic study Scope of Work with you and your staff. Accordingly, any additional work items not foreseen in the Scope of Work may necessitate a contract amendment.

Philip M. Linscott, PE (1924-2000)
Jack M. Greenspan, PE (Ret.)
William A. Law, PE (Ret.)
Paul W. Wilkinson, PE
John P. Keating, PE
David S. Shender, PE
John A. Boarman, PE
Clare M. Look-Jaeger, PE
Richard E. Barretto, PE
Neil D. Maberry, PE

SCOPE OF WORK

Task 1: Project Mobilization

- 1.1 Confirm the project description with your office, as well as the work schedule, and assumptions to be utilized in the traffic study. Obtain the current project site plan that illustrates the access scheme to the project site in both hard copy and digital formats.
- 1.2 Confirm with you and your staff the traffic study analysis criteria, traffic study approach, and pertinent traffic-related issues and concerns to be evaluated in the report.
- 1.3 Review relevant documents such as the prior KOA traffic study, the prior screencheck Draft EIR, the Circulation Element, plans for the widening of Moorpark Avenue, etc.

Task 2: Data Collection and Research

In this task, we will collect the data necessary to prepare the traffic impact analysis.

- 2.1 Visit the project study area to confirm existing conditions (to confirm a year 2014 baseline to be used in the traffic analysis) with respect to existing development, site access, parking use, and areas of congestion in order to verify our overall understanding of traffic conditions in the area, which might affect this project.
- 2.2 In conjunction with Task 2.1, confirm the existing roadway striping, traffic control measures, curbside parking restrictions, adjacent intersection configurations, and other pertinent roadway features.
- 2.3 Conduct weekday morning (7:00 to 9:00 AM) and afternoon (4:00 to 6:00 PM) manual turning movement counts at up to 14 study intersections. This represents the 11 intersections evaluated in the previous KOA traffic study, as well as up to three additional intersections that may be evaluated in the traffic study based on consultation with City staff and the project team. The number and location of the study intersections will be verified with City staff prior to commencing the analysis. Should City staff request traffic counts and analysis at additional intersections (i.e., more than 14 study intersections), an amendment to our contract will be necessary.

- 2.4 Research data at the City of Moorpark, as well as adjacent jurisdictions (Ventura County, City of Simi Valley, etc.) regarding the status of other proposed developments (related projects) in the area which may contribute cumulative impacts to the adjacent street system and study locations in the vicinity of the proposed project.
- 2.5 Confirm with City staff and the project team the approach to be used in the traffic study in regards to evaluation of cumulative traffic impacts in compliance with CEQA (e.g., the review of related projects, the incorporation of an adopted traffic growth rate, or some combination thereof).

Task 3: Trip Generation, Distribution, and Assignment

- 3.1 Prepare a trip generation forecast for the proposed project for a typical weekday over a 24-hour period, as well as for the weekday commuter AM and PM peak hours. The trip generation forecasts will be derived from trip rates listed in *Trip Generation*, 9th Edition, published by the Institute of Transportation Engineers (ITE) in 2012. Appropriate trip generation credits will be applied to the forecast to account for the existing land uses on the project site. Should changes occur in the project description after completion of Tasks 1.1, 1.2 and 3.1, an amendment to this contract may be required.
- 3.2 Assign the forecast weekday AM and PM peak hour trips expected to be generated by the proposed project to the study intersections based on existing and anticipated traffic patterns to and from the project site.
- 3.3 Prepare trip generation forecasts for the related projects for a typical weekday over a 24-hour period, as well as for the weekday commuter AM and PM peak hours utilizing the ITE *Trip Generation* publication. The forecast weekday AM and PM peak hour trips expected to be generated by the related projects will be distributed and assigned to the local street system.
- 3.4 In addition to related projects, consider utilization of an ambient traffic growth factor for purposes of assessing the trips generated by related projects that are currently unknown, and/or are located outside the study area.

Task 4: Project Evaluation and Mitigation Measures

- 4.1 Prepare weekday AM and PM peak hour Level of Service calculations at the study intersections for existing conditions, existing with project conditions, as well as future conditions with and without the proposed project traffic to determine the potential impacts of the project. For the purposes of this proposal, LLG has assumed the project will be completed in one phase. Specifically, the following traffic analysis scenarios are assumed:

- Existing
 - Existing + Project
 - Future Year (Project Build-Out)
 - Future Year (Project Build-Out) + Project
 - Future Year (General Plan Build-Out)
 - Future Year (General Plan Build-Out) + Project
- 4.2 Utilize City approved capacity analysis methodologies (i.e., Intersection Capacity Utilization method, Highway Capacity Manual method, etc.) for the Level of Service calculations.
- 4.3 Assess the impact of the project based on the results of the peak hour intersection analyses and application of the City of Moorpark significance criteria. Based on this assessment, determine which intersections (if any) will require improvements to mitigate potential traffic impacts associated with the proposed development. Potential impacts to intersections on State Highways will also be assessed using Caltrans standards.
- 4.4 Coordinate with City of Moorpark staff to identify potential transportation demand management and roadway improvement measures available to reduce any forecast significant impacts to less than significant levels. Based on this coordination, provide recommended mitigation measures which may include demand management measures, intersection and/or signalization improvements, striping modifications, etc. The recommended mitigation measures will be described within the text of the report. Should concept plans be required to demonstrate the feasibility of any of the recommended mitigation measures, a contract amendment will be required.

Task 5: Site Access and Circulation Review

- 5.1 Review the proposed project site plan and provide recommendations to address potential concerns regarding site access and internal circulation.
- 5.2 Provide recommendations regarding the location of site access driveways, the number of driveways, potential turn restrictions, and connectivity with the internal site circulation system.

Task 6: Project Parking Analysis

- 6.1 LLG will work with the project team in determining the required amount of parking for the project. To the extent that shared parking can be considered for the project, a demand analysis will be prepared in support of the proposed supply.

Task 7: Preparation of the Traffic Impact Study

- 7.1 Prepare a draft traffic impact study in report format which details all of the above-mentioned items including our analysis, findings and conclusions, including applicable CEQA Checklist-related questions. The draft study will be suitably documented with tabular, graphic and appendix material. The draft study will be submitted for your review and review by appropriate members of the project team (i.e., the project's environmental and legal consultants).
- 7.2 If necessary, revise the draft traffic impact study based on project team comments (i.e., one round of revisions assumed) and submit the final report to the project team for use in the Draft EIR.

Task 8: Construction Traffic Analysis

- 8.1 Obtain from the project team a description of the anticipated construction-related activities during construction (i.e., grading, material export, structure construction, etc.). In addition, obtain information regarding trucks (i.e., type, size, number, frequency, etc.), as well as the construction workers (i.e., number of workers, shift times, schedule, etc.).
- 8.2 Prepare a trip generation forecast of the construction-related traffic associated with the development of the proposed project. Compare the construction traffic to the forecast project traffic generation.
- 8.3 Compare the forecast weekday AM and PM peak hour trips expected to be generated by the peak construction-related activities to the project at completion based on a review of the existing and/or anticipated truck routes/traffic patterns to and from the project site. It should be noted that this proposal does not include preparation of peak hour Level of Service calculations at the study intersections. Should intersection analyses be required, an amendment to our contract may be necessary.
- 8.4 If necessary, identify improvements to mitigate any potentially significant construction traffic impacts to less than significant levels.

Task 9: Alternatives Assessment

- 9.1 Prepare trip generation forecasts for up to three project alternatives for a typical weekday over a 24-hour period, as well as for the weekday commuter AM and PM peak hours utilizing the ITE *Trip Generation* publication.

- 9.2 Assess on a qualitative basis the relative impact of the project alternatives based on the results of the peak hour trip generation forecasts and a review of any potential impacts associated with the proposed project. It is assumed that preparation of full impact analyses of the alternative projects (i.e., a quantitative analysis of all study intersections) will not be required.
- 9.3 Incorporate the project alternatives trip generation and levels of service analysis into the traffic study.

Task 10: General Plan Amendment Support

- 10.1 Prepare a draft of the proposed amendment to the Circulation Element of the General Plan to reclassify Moorpark Avenue to support the proposed widening adjacent to the project site. Prepare supporting text, tables and graphics as needed. Transmit the General Plan amendment documents to the project team for review and use.

Task 11: Consultation Related to the Draft EIR

- 11.1 Review the initial draft of the Draft EIR Traffic and Circulation Section, as well as the Alternatives section. Provide comments to the project team.

Task 12: Response to Comments/Final EIR Support

- 12.1 Coordinate with the environmental consultant in obtaining a response to comments template. It is assumed that the template will include copies of all of the comment letters received as of the close of the public comment period and that each comment letter/individual comment will be numbered and allocated to each area of discipline (e.g., to traffic and transportation).
- 12.2 Review the comment letters and individual comments associated with traffic and transportation issues. Prepare written responses to those comments included in the traffic and transportation discipline and forward to the project team for incorporation into the Final EIR document. Please note that this work effort cannot be adequately defined until the number and scope of comments have been reviewed. For budgeting purposes, we have assumed a budget of \$7,800.00 for this work effort (24 hours of Principal Engineer time and 16 hours of Transportation Engineer I time). Should the number of comments be extensive and require additional consultation beyond the above allocation of hours, an amendment to our contract will be necessary.

Task 13: Attendance at Meetings and Public Hearings

- 13.1 This proposal assumes preparation for and attendance by LLG at eight (8) meetings with the project team and/or City staff as part of the traffic study and EIR process.
- 13.2 This proposal includes preparation for and attendance by LLG at up to four (4) community meeting or public hearings. We would be pleased to provide additional public hearing representation, if requested. An amendment to our contract would be provided for your approval prior to providing any additional hearing support.

ADDITIONAL SERVICES

Work items requested outside the Scope of Work outlined in this letter, such as changes to the project description, additional traffic counts, preparation of conceptual roadway improvement plans, additional analyses, additional consultation associated with the preparation of responses to comments, and/or attendance at additional meetings or additional public hearing support may require a contract amendment. No additional work will be performed without prior authorization.

SCHEDULING

We estimate that our draft traffic impact study report will be available approximately six weeks after receiving authorization to proceed and completion of the traffic counts. This time estimate assumes issues of direct impact (i.e., project description, study locations, conduct of traffic counts, etc.) are well enough defined to allow our analysis to proceed effectively. Please note it is suggested the new traffic counts be conducted when local schools are in session. We will make every effort to complete our work in coordination with your time frame.

FEE ESTIMATE

We estimate that our fee for the services outlined above in Tasks 1 through 13 will not exceed \$77,800.00. Our services will be billed monthly on a time and materials basis according to the attached Fee Schedule. A breakdown of our fees is provided at the end of this letter.

LIABILITY

We carry appropriate liability insurance, both general and professional and workman's compensation insurance. A sample copy of our insurance certificate is attached for review and reference.

TERMINATION

The services covered by this proposal may be terminated by either party at any time by written notice. Upon termination, Linscott, Law & Greenspan, Engineers will stop all activities immediately, notify all subcontractors (if any) to stop work, and prepare an invoice for any services rendered but not already submitted to the client.

AUTHORIZATION

If this proposal is acceptable, you may indicate approval by signing in the space provided at the end of this letter and returning the original for our files. Alternatively, you may issue a purchase order or consultant contract with this proposal attached as an exhibit. This proposal is valid for 90 days from the date of this letter. Please note that for the purposes of preparing contract document, Linscott, Law & Greenspan, Engineers, is a DBA for LG2WB Engineers, Inc., a California corporation.

We appreciate the opportunity to submit this proposal and look forward to working with you on this project. Please call us at 818.835.8648 if you have any questions or comments regarding this proposal.

Sincerely,
Linscott, Law & Greenspan, Engineers



David S. Shender, P.E.
Principal
California Registration C 45324

Enclosure

c: File

PROPOSAL ACCEPTED FOR TASKS 1 THROUGH 13 AS OUTLINED ABOVE NOT TO EXCEED \$77,800.00 WITHOUT PRIOR AUTHORIZATION.

_____	_____
(Authorized Agent)	(Title)
_____	_____
(Firm)	(Federal I.D. Number)
_____	_____
(Address)	(Date)

ESTIMATED FEE BREAKDOWN

Task	Fee
1. Project Mobilization	\$2,200
2. Data Collection	3,400
3. Trip Generation/Distribution	3,900
4. Project Evaluation/Mitigation Measures	7,900
5. Site Access Review	1,200
6. Parking Analysis	2,700
7. Traffic Study Preparation	7,000
8. Construction	1,900
9. Alternatives	4,000
10. General Plan Amendment Support	4,000
11. Draft EIR Support	3,600
12. Responses to Comments	7,100
13. Meeting and Hearing Attendance	22,400
<u>Expenses</u>	
Traffic Counts (14 intersections)	5,600
Misc. Expenses (mileage, parking, etc.)	900
Total	\$77,800