

**AGREEMENT FOR TRANSIT SERVICES  
BETWEEN THE CITY OF THOUSAND OAKS  
AND  
CITY OF MOORPARK**

THIS AGREEMENT, made and entered into this 24th day of June, 2014, by and between the **CITY OF THOUSAND OAKS**, a municipal corporation (hereinafter referred to as "City"), and **CITY OF MOORPARK**, a municipal corporation (hereinafter referred to as "Moorpark"). The City and Moorpark agree as follows:

**1. RETENTION OF CITY**

Moorpark hereby retains City, and City hereby accepts such engagement, to perform the services described in Section 2. City warrants it has the qualifications, experience, and facilities to properly and timely perform said services.

**2. DESCRIPTION OF SERVICES**

The services to be performed by City are as follows:

Operation and management of Senior Dial-A-Ride (DAR) and Americans with Disabilities Act (ADA) Paratransit services in conjunction with Moorpark's local transportation programs, through City's contracted transit operator as set forth in the Scope of Work, attached as Exhibit "A."

**3. COMPENSATION AND PAYMENT**

**(a) Compensation.** Fees to City for those services and expenses set forth in the Schedule of Fees, attached as Exhibit "B", shall be calculated as set forth therein. The fees set forth in the exhibit shall be binding upon Moorpark for the term of this Agreement. Rates for service will be based on a per ride cost. "Ride" shall be defined as a pick-up of authorized Senior DAR or ADA participant in the service area with transportation to another location within the service area.

**(b) Invoice and Payment.** All payments shall be made within thirty (30) days after receipt of written verification from the City of the actual compensation earned, in a form satisfactory to Moorpark. City shall address invoices as follows:

Moorpark Public Transit Division  
City of Moorpark  
799 Moorpark Avenue  
Moorpark, CA 93021

**4. EXTRA SERVICES**

Moorpark shall pay City for Moorpark authorized extra services, not provided pursuant to the services described in Section 2, at fees mutually agreed to in writing in

advance by the parties. Unless Moorpark and City have agreed in writing before the performance of extra services, no liability and no right to claim compensation for extra services or expenses shall exist.

**5. THOUSAND OAKS PROJECT MANAGER**

City shall perform the services required under this Agreement under the general direction of, and coordinated by, City's "Project Manager," who presently is Mike Houser, Transit Manager.

**6. TERM**

The term of this Agreement shall run concurrently with Transit Operations Contract No. 10470-2014, July 1, 2014 to June 30, 2019.

**7. ASSIGNMENT OF SUBCONTRACTOR**

City shall not assign this Agreement without Moorpark's prior written consent.

**8. HOLD HARMLESS AND INDEMNITY**

To the fullest extent permitted by law, City shall defend, indemnify and hold harmless Moorpark and its elected officials, officers, employees, servants, designated volunteers (collectively, "Indemnitees") from and against all claims, demands, lawsuits, judgments, damages, losses, injuries or liability, including, without limitation monetary or property damage, personal injury or wrongful death, and costs or expenses, including legal counsels' fees and costs of defense (collectively, "Claims") whether actual, alleged or threatened, which arise out of, pertain to, or relate to, in whole or in part, the negligent acts or omissions, or willful misconduct, of City, its elected officials, officers, agents, employees, contractors or consultants, including, without limitation, City's contracted transit operator, in the performance of this Agreement, except for such Claims arising from the sole negligence or willful misconduct of Moorpark. City shall require its contracted transit operator to similarly agree to defend and indemnify Moorpark for the acts or omissions of the contracted transit operator or its officers, agents, employees, contractors or consultants.

**9. INSURANCE**

City shall at all times during the term of this Agreement require City's contracted transit operator to carry the insurance specified in Section 10 ("Insurance") of the Agreement for Professional Services Between the City and Contract Operator, Contract No. 10470-2014, dated May 27, 2014. City shall require City's contracted transit operator to name Moorpark and its elected officials, officers and employees as additional insured on all liability insurance specified in Section 10 of Agreement for Professional Services between the City and Contract Operator, Contract No. 10470-2014, dated May 27, 2014.

## **10. RELATION OF THE PARTIES**

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

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

## **11. TERMINATION BY CITY**

Either party, through written notification, may upon sixty (60) calendar days notice, terminate any portion or all of the services agreed to be performed under this Agreement. In the event of such termination, City shall have the right and obligation to immediately assemble work in progress for the purpose of closing out the job. All compensation for actual work performed and charges outstanding at the time of termination shall be payable by Moorpark to City within thirty (30) days following submission of a final statement by City, unless termination is for cause. In such event, City shall be compensated only to the extent required by law. City or Moorpark, by notifying the other in writing may, upon seven (7) calendar days notice, terminate with cause, any portion or all of the services agreed to be performed under this Agreement. In the event a notice of termination is provided by one party to this Agreement for causable action, the other party to the Agreement will be given seven (7) calendar days to correct the causable action before termination of the Agreement takes place.

## **12. CORRECTIONS**

The City shall correct, at its expense, all errors in the work which may be disclosed during the Moorpark's review of the City's work.

## **13. ACCEPTANCE OF FINAL PAYMENT CONSTITUTES RELEASE**

The acceptance by City of the final payment made under this Agreement shall operate as and be a release of Moorpark from all claims and liabilities for compensation to City for anything done, furnished or relating to City's work or services. Acceptance of payment shall be any negotiation of Moorpark's check or the failure to make a written extra compensation claim within five (5) calendar days of the receipt of that check, whichever occurs first.

**14. WAIVER; REMEDIES CUMULATIVE**

Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, irrespective of the length of time for which such failure continues, shall not constitute a waiver of such party's right to demand strict compliance by such other party in the future. No waiver by a party of a default or breach of the other party shall be effective or binding upon such party unless made in writing by such party, and no such waiver shall be implied from any omissions by a party to take any action with respect to such default or breach. No express written waiver of a specified default or breach shall affect any other default or breach, or cover any other period of time, other than any default or breach and/or period of time specified. All of the remedies permitted or available to a party under this Agreement, or at law or in equity, shall be cumulative and alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right of remedy.

**14.1 PERFORMANCE STANDARDS**

Moorpark reserves the right to assess Performance Standards specified in Exhibit "C".

**15. NON-APPROPRIATION OF FUNDS**

Payments due and payable to City for current services are within the current budget and within an available, unexhausted and unencumbered appropriation of Moorpark's funds. In the event Moorpark has not appropriated sufficient funds for payment of City's services beyond the current fiscal year, this Agreement shall cover only those costs incurred up to the conclusion of the current fiscal year.

**16. GOVERNING LAW; CAPTIONS; ENTIRE AGREEMENT BETWEEN PARTIES**

This Agreement, and the rights and obligations of the parties, shall be governed and interpreted in accordance with the laws of the State of California. 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 provisions of this Agreement shall be construed as a whole according to its common meaning of purpose of providing a public benefit and not strictly for or against any party. Wherever required by the context, the singular shall include the plural and vice versa, and the masculine gender shall include the feminine or neutral genders or vice versa. The captions or headings in this Agreement are for convenience only and in no other way define, limit or describe the scope or intent of any provision or section of the Agreement. Except for City's proposals and submitted representations for obtaining this Agreement, this Agreement supersedes any other agreements, either oral or in writing, between the parties hereto with respect to the rendering or services, and contains all of the covenants and agreements between the parties with respect to said services. Any modifications of this Agreement will be effective only if it is in writing and signed by the party to be charged.

**17. MITIGATION OF DAMAGES**

In all situations arising out of this Agreement, the parties shall attempt to avoid and minimize the damages resulting from the conduct of the other party.

**18. MODIFICATION OF AGREEMENT**

The tasks described in this Agreement and all other terms of this Agreement may be modified only upon mutual written consent of Moorpark and City.

**19. AUTHORIZATION**

Each party has expressly authorized the execution of this Agreement on its behalf and bind said party and its respective administrators, officers, directors, shareholders, divisions, subsidiaries, agents, employees, successors, assigns, principals, partners, joint venturers, insurance carriers and any others who may claim through it to this Agreement.

**20. PARTIAL INVALIDITY**

If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

**21. NOTICES**

Any notice required to be given hereunder shall be deemed to have been given by depositing said notice in the United States mail, postage prepaid, and addressed as follows:

TO CITY: Mike Houser, Transit Manager  
City of Thousand Oaks  
Municipal Service Center  
1993 Rancho Conejo Boulevard  
Thousand Oaks, CA 91320

TO MOORPARK: City Manager  
City of Moorpark  
799 Moorpark Avenue  
Moorpark, CA 93021

**22. PERMITS AND LICENSES**


City, at its sole expense, shall obtain and maintain during the term of this Agreement all appropriate permits, licenses, and certificates that may be required in connection with the performance of services under this Agreement.

**23. LEGAL RESPONSIBILITIES**

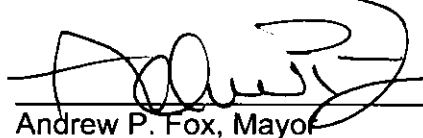
City shall keep itself informed of local, state and federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. City shall at all times observe and comply with all such laws and regulations, including but not limited to the Americans with Disabilities Act, Federal Transit Administration (FTA) Requirements as specified in Exhibit "D", and Occupational Health and Safety Administration laws and regulations. Moorpark, and its officers and employees, shall not be liable at law or in equity occasioned by failure of City to comply with this Section.

In concurrence and witness whereof, this Agreement has been executed by the parties effective on the date and year first above written.

**CITY OF MOORPARK**


  
Jarice S. Parvin, Mayor

**CITY OF THOUSAND OAKS**

  
Andrew P. Fox, Mayor

**ATTEST:**

  
Maureen Benson, City Clerk


  
Linda D. Lawrence, City Clerk

**APPROVED AS TO ADMINISTRATION:**

  
Steven Kueny, City Manager

  
For Scott Mitnick, City Manager

**APPROVED AS TO FORM:  
Office of the City Attorney**

  
Christopher G. Norman  
Assistant City Attorney

## EXHIBIT A

### SCOPE OF WORK

#### **City's Duties and Responsibilities - Operations**

City accepts responsibility for and shall perform, through the use of City's contracted transit operator the services set forth below in connection with the operation and management of Moorpark's DAR and ADA services.

Except as specifically noted below or where not applicable in the scope of the duties as described above, the terms of the City's contract with transit operator, shall describe and set forth the standards by which City shall provide services under this Agreement. To the extent of any conflict between the terms of the City's contract with transit operator and the terms of this Agreement, the terms of this Agreement shall control.

#### **1. Operations:**

City shall provide operations management at a level sufficient to oversee the performance of the services required under this Agreement.

#### **2. Service Area, and Days and Hours of Operation:**

**Moorpark Intra-City Senior and ADA Paratransit:** This origin-to-destination service is for residents aged 62 and older and persons with disabilities certified under ADA. Service area is within the Moorpark city limits.

**Inter-City ADA Paratransit:** This origin-to-destination service enables persons with disabilities certified under the ADA to travel from Moorpark to Thousand Oaks/Westlake Village, Oak Park, and Camarillo. The service also provides transfer services to the cities of Oxnard and Ventura, and Los Angeles County. Travel to and from the City of Simi Valley for persons with an ADA card where the trip originates in Moorpark shall be provided as well. Trips originating from Simi Valley (i.e., Simi Valley residents) shall be provided at designated transfer points.

Transfer Points are:

Simi Valley (via Simi Valley Transit):

- Simi Valley Town Center – 1555 Simi Town Center Way, Simi Valley. At the Vista East County bus stop on Jefferson Way (behind the Town Center).
- Wood Ranch Shopping Center – 591 Country Club Drive, Simi Valley, in front of Starbuck's.

Oxnard/Ventura (via Gold Coast Transit):

- Camarillo Bus Stop – 1306 North Del Norte Drive, Camarillo,

Los Angeles County (Via L.A. Access):

- Carl's Jr. – 887 South Westlake Boulevard, Thousand Oaks.

The Moorpark Dial-A-Ride and ADA Paratransit Service is provided on the following schedule: Monday through Friday, 5:00 a.m. – 8:00 p.m., Saturday and Sunday, 8:00 a.m. – 5:00 p.m. Intercity ADA services are provided Monday – Friday from 6:00 a.m. – 6:00 p.m. and from 8:00 a.m. – 5:00 p.m. Saturday and Sunday (Service area limited to Thousand Oaks, Moorpark, Westlake Village, and Oak Park).

There is no service outside these hours, or on the following six (6) national holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. Service is provided on other federal, state and local holidays. The service days and hours of the Dial-A-Ride service may be adjusted to match any future changes in the Moorpark Fixed Route service days and hours. Moorpark agrees to match City modified service hours on December 24 and December 31.

Moorpark reserves the right to make adjustments to the service area, days, and hours. For major adjustments, City shall be notified in writing not less than seven (7) calendar days prior to the effective date; for minor adjustments, City shall be given at least twenty-four (24) hours notice.

**3. Personnel:**

All employees providing services under this Agreement with the exception of City's Project Manager and Fleet staff will be employees of City's contracted transit operator, and subject to the transit operator's rules or requirements of City's transit operator Agreement, Contract No. 10470-2014.

**4. Dispatch:**

City shall provide dispatch services for Moorpark during the same times and days as required by City. Reservation guidelines are as follows:

Intra-City travel: Participants may call two (2) hours in advance of requested pick-up time.

Inter-City travel: Once ADA certified, participants are advised to make reservations at a minimum of the day before a requested pick-up and not more than fourteen (14) days in advance.



**5. Vehicles:**

City warrants that it has sufficient vehicles to adequately meet demand and provide service within the on-time performance standards described in the transit operator Agreement, Contract No. 10470-2014, dated May 27, 2014. The additional service demand is estimated to be not more than 500 rides per month. In the event demand for rides exceeds the estimate plus ten percent (10%) as calculated on a monthly basis, Moorpark shall provide additional compensation to City as described in Schedule of Fees, attached as Exhibit "B," to partially offset the cost of additional vehicles that will have to be placed into service to accommodate the excess demand.

**6. Drivers:**

City shall provide drivers and customer service as required utilizing its contract operator.

**7. Operation Records and Reports:**

City shall be required to maintain ridership and operations records for this service as described below.

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

- A. Listing of all vehicle breakdowns/road calls occurring while providing service to Moorpark residents with a description of the cause and corrective actions taken.
- B. Date, time, and length of time for any service disruptions.
- C. A monthly summary of vehicle miles, vehicle miles since last preventive maintenance inspection, a list of any vehicle repairs made, number and length of time a backup vehicle was used, and vehicle road calls.
- D. Total participant counts by category and fare (senior, ADA, Intra, Inter) and date.
- E. Participant counts by payment method (cash, pass, free meal trip, transfer) by date.
- F. Missed or abbreviated route trips, delays or unusual incidents while on duty.

Additionally, City shall collect, record, and report annually other statistical data required under Section 15 of the Federal Transit Act which includes, but is not limited to; participant count by fare, vehicle hours, vehicle miles, vehicle revenue hours, vehicle revenue miles, participants per hour, wheelchair boardings, participant trip denials, and participant "no-shows".

**8. Fares:**

City shall collect fares as established by Moorpark. The fares are (one way):

**Intra City**

Senior or ADA service: \$1.50 per participant  
City Senior Nutrition trips: \$1.50 suggested donation per participant

Inter-City ADA trips: \$3.00 per participant (Thousand Oaks/Moorpark, Simi Valley – via transfer point)  
\$4.50 per participant (Camarillo, Oak Park, Gold Coast Transit, L.A. Access)

Senior Nutrition Trips are trips to and from Moorpark's Active Adult Center, 799 Moorpark Avenue, to access the Senior Nutrition Program. Personal Care Attendants (PCAs) do not pay fare. Companions must pay fare equal to the participant fare.

When performing transfer services, the originating operator collects the full fare. City will keep fares collected by transit operator and deduct the collected fares from Moorpark's invoice.

**9. Meetings and Contact Information:**

City shall make administrative staff available to attend two (2) meetings per year of Moorpark's Transportation and Public Works Committee. Moorpark shall notify City, in advance, of any meeting City is required to attend. City shall provide Moorpark with emergency and after hours contact telephone numbers and pagers that Moorpark may use, as necessary, to communicate with City after normal working hours.

**10. Expanded Services:**

From time to time Moorpark may wish to expand the hours or the days of services to the community. With twenty-one (21) days written notice, City shall provide the expanded service.

**11. Notification of Service Disruptions:**

City shall notify Moorpark, at the first available opportunity, but no later than one (1) hour after City is made aware, of any vehicle breakdowns or other problems that may cause service disruptions.

**12. Operating During an Emergency:**

In the event of a major emergency such as a natural disaster or other catastrophic event, City shall make transportation and communication resources available to Moorpark to the highest degree possible. If the normal line of direct authority from Moorpark is intact, City shall follow instruction of Moorpark. If normal line of direct authority is broken, and for the period while it is broken, City shall make best use of transportation resources following the direction of the organization which appears to have assumed responsibility.

Emergency transportation may include evacuation, transportation of injured and movement of people to food and shelter. City shall be reimbursed in accordance with the current Agreement rate, or, if the normal method does not cover the types of emergency services involved, then on the basis of fair, equitable and prompt reimbursement of City's actual costs. Reimbursements for such major emergency services shall be over and above the maximum obligation of this Agreement. Immediately after the emergency condition ceases, City shall reinstate normal transportation services. Payment shall be based on a written report showing services and cost breakdown related to emergency.

While operating during an emergency, City shall keep records of all emergency transportation in accordance with Federal Emergency Management Agency (FEMA) requirements in order for Moorpark to receive FEMA reimbursement for emergency transportation expenses. In the event that FEMA rejects Moorpark's reimbursement request due to City's reports not meeting FEMA's standards, City shall be required to re-write the reports for resubmittal. In the event FEMA rejects Moorpark's reimbursement request due to City's failure to keep proper records of emergency transportation services, City shall be required to reimburse Moorpark's emergency transportation services expenses within thirty (30) days or the expenses can be deducted from Moorpark's next invoice for Fixed Route Bus services.

While operating during an emergency, City shall not be assessed liquidated damages as specified in Exhibit "C" of this Agreement.

**13. Invoice Attachments:**

When submitting invoices, Contractor shall also provide driver sheets for all trips provided, which shall include the following:

<ul style="list-style-type: none"> <li>• Driver's name and vehicle ID number</li> <li>• Date</li> <li>• Appointment time</li> <li>• Actual pick-up time</li> <li>• Actual drop-off time</li> <li>• ADA number (if applicable)</li> <li>• Participant name</li> <li>• Inter or Intra trip designation</li> <li>• Pick-up address</li> </ul>	<ul style="list-style-type: none"> <li>• Destination address</li> <li>• Fare paid/transfer</li> <li>• Odometer at pick-up point</li> <li>• Odometer at drop-off point</li> <li>• Mileage/trip</li> <li>• Total mileage</li> <li>• If a PCA and/or companion was included</li> <li>• Total trips</li> <li>• Total participants</li> </ul>
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**14. Service Complaints:**

All service complaints originating from Moorpark's service area shall be handled in accordance with City's standards of response and the obligations of the contracted transit operator. In the event City is unable to satisfactorily resolve the complaint or the complaint involves an issue outside the scope of this Agreement, the complaint will be referred to Moorpark for resolution.

## EXHIBIT B

### SCHEDULE OF FEES

City shall bill Moorpark on a per ride basis. For year one of the Agreement, this cost shall be \$28.38 per ride including fifteen percent (15%) City administrative charge. Moorpark shall receive credit for all fares collected. For each subsequent contract year, this cost shall be calculated annually for the new fiscal year by City no later than August 31 and shall apply retroactively to July 1 of the fiscal year. City shall notify Moorpark in writing no later than September 15 of the cost per ride for the year beginning July 1. This cost shall be calculated in the following manner:

Sum of costs of all DAR and ADA rides provided by transit operator for the period of July 1 – June 30 of the prior fiscal year divided by the total number of rides provided in the same time period plus contract transit operator's earned CPI adjustment as described in Agreement for Professional Services Between the City and Contract Operator, Contract No. 10470-2014, May 27, 2014 plus 15 percent City administrative charge. Costs shall be inclusive of all operational and personnel costs but excludes from calculation one-time capital costs associated with vehicle purchases and capital improvement projects specific to the DAR service. Figures will be taken directly from City's annual ridership report to the Federal Transit Administration and from City's Accounting System.

The rate shall be recalculated annually each contract year in accordance with the above.

Should the number of rides provided in any calendar month under this Agreement exceed more than ten percent of the base of 500 rides per month, Moorpark shall further compensate City according to the following formula:

Percent over base	Number of Rides	Additional Monthly Cost
11-20%	(551-600)	\$ 200
21-30%	(601-650)	\$ 300
31-40%	(651-700)	\$ 400
41-50%	(701-750)	\$ 500
51-99%	(751-999)	\$1,000
100+%	(1,000+)	\$1,500

Should the number of rides provided in three consecutive calendar months under this Agreement exceed more than 700 rides per month, City and Moorpark shall meet and confer to negotiate a recalculation of the "Additional Monthly Cost."

Extra services shall be billed at a rate mutually agreeable to Moorpark and City. This extra services billing shall be in writing.

## **EXHIBIT C**

### **Performance Standards**

The performance standards described in Exhibit D, Transit Operations, Contract 10470-2014, dated May 27, 2014, shall apply to this Agreement. In the event Liquidated Damages are levied that apply solely to Moorpark DAR and ADA service, Moorpark shall be entitled to a credit on their next monthly invoice equal to the Liquidated Damages.

#### **Force Majeure:**

City shall be excused from performance as described above during the time and to the extent that it is prevented from performing in the customary manner by force majeure, fire, flood, war, riot, civil disturbance, vandalism, terrorism, epidemic, quarantine, strike, lockout, labor dispute, freight embargo, rationing or unavailability of materials or products, loss of transportation facilities, commandeering of equipment, materials, products, plants, or facilities of government, or any other occurrences or circumstances which are beyond the control of City.

## EXHIBIT D

### FEDERAL TRANSIT ADMINISTRATION (FTA) REQUIREMENTS (EXCERPT AS OF MAY 2010)

#### 1. Medical/Drug/Alcohol Testing

City shall require pre-employment medical examinations, including drug testing, for all prospective drivers and other safety sensitive employees of City. In addition, for any prospective employee who held prior safety-sensitive positions for another United States Department of Transportation (USDOT)-funded employer, City shall, after obtaining the required permission, check with those previous employers for any prior positive test results. Additionally, City must have an anti-drug program established for employees under the Congressionally Mandated Drug-Free Workplace Act.

City shall comply with the Congressionally Mandated Drug-Free Workplace Act of 1988, the Omnibus Transportation Employee Testing Act of 1991, and 49 Code of Federal Regulations (CFR) Parts 653 and 654, superseded by Part 655 in 2002, regarding Drug and Alcohol Testing, and the FTA Drug and Alcohol testing requirements. The required testing includes pre-employment testing, testing after an accident, testing when there is reasonable suspicion, random testing, and testing before returning to duty to perform sensitive safety functions after a positive drug test.

#### 2. Audit and Inspection

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

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

#### 3. Clean Water

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

#### **4. Equal Employment Opportunity**

In connection with the execution of this Agreement, City shall not discriminate against any employee or applicant for employment because of age, religion, color, sex, sexual orientation, national origin, marital status, or any disability not limiting the ability of the person to perform the job contemplated. City shall take affirmative action to ensure that applicants are employed, and that employees are treated during their employment, without regard to their age, race, religion, color, sex, sexual orientation, national origin, marital status, or any disability not limiting the ability of the person to perform the job contemplated. Such actions shall include, but not be limited to the following: Employment, up-grading, demotion, or transfer; recruitment, or recruitment advertising; layoff, or termination; rates of pay, or other forms of compensation; and selection for training, including apprenticeship. Such shall be in compliance with Executive Order 11246 amended by Executive Order 11375 and amended by Executive Order 11478 and as supplemented in United States Department of Labor (USDOL) regulations 41 CFR Part 60.

In connection with the execution of this Agreement, City shall comply with all aspects of the Federal Immigration and Naturalization Act of 1986.

#### **5. Conservation**

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

#### **6. Clean Air**

City agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 USC Sections 7401 et seq. City agrees to report each violation to Moorpark and understands and agrees that Moorpark shall, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. City also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance by FTA if the subcontract includes services for Moorpark.

#### **7. Title VI of the Civil Rights Act of 1964**

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

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

- B. Nondiscrimination:** City, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment City shall not participate' either directly or indirectly in the discrimination prohibited by Part 21.5 of the Regulations, including employment practices when the contract covers a program set forth in the Regulations. The proposal should include a statement by City certifying its compliance with the Regulations.
- C. Solicitations for Subcontractors, Including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by City for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by City of City's obligations under this Agreement and the Regulations relative to non-discrimination on the grounds of race, color, or national origin.
- D. Information and Reports:** City shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by Moorpark or the FTA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, City shall so certify to Moorpark or the FTA as appropriate, and shall set forth what efforts it has made to obtain the information.
- E. Sanctions for Noncompliance:** In the event of City's noncompliance with nondiscrimination provisions of this Agreement, Moorpark shall impose sanctions as it or the FTA may determine to be appropriate, including, but not limited to:
1. Withholding of payments to City under the Agreement until City complies; and/or
  2. Cancellation, termination, or suspension of the Agreement, in whole or in part.
- F. Incorporation of Provisions:** City shall include the provisions of paragraphs "A" through "E" in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

**8. Contract Work Hours and Safety Standards Act (CWHSSA)**

The CWHSSA, 40 USC Sections 327-333 applies to all agreements over \$100,000 that may require or involve laborers or mechanics. The CWHSSA requires that laborers or mechanics cannot be required, or permitted, to work more than forty (40) hours in any workweek unless paid overtime at not less than one and one-half (1.5) times the basic rate of pay.



## **9. No Obligation by the Federal Government**

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

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

## **10. Program Fraud and False or Fraudulent Statements or Related Acts**

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

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

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

## **11. Incorporation of FTA Terms**

The provisions in Attachment 3 include, in part, certain Standard Terms and Conditions required by the USDOT, whether or not expressly set forth in the preceding provisions. All contractual provisions required by USDOT, as set forth in FTA Circular 4220.1F, dated November 1, 2008, as it may be amended from time to time, are hereby incorporated in this Agreement reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a

conflict with other provisions contained in this Agreement. City shall not perform any act, fail to perform any act or refuse to comply with any requests of Moorpark which would cause Moorpark to be in violation of the FTA terms and conditions.

## **12. Contracts Involving Federal Privacy Act Requirements**

The following requirements apply to City and its employees that administer any system of records on behalf of the Federal Government under any contract:

- (A) City agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 USC Section 552(a). Among other things, City agrees to obtain the express consent of the Federal Government before THOUSAND OAKS or its employees operate a system of records on behalf of the Federal Government. City understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying Agreement.
- (B) City also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.
- (C) City agrees to comply with applicable transit employee protective requirements as follows:
  - (1) General Transit Employee Protective Requirements - To the extent that FTA determines that transit operations are involved, City agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this Agreement and to meet the employee protective requirements of 49 USC Section 5333(b), and USDOL guidelines at 29 CFR Part 215, and any agreements thereto. These terms and conditions are identified in the letter of certification from the USDOL to FTA applicable to the FTA recipient's project from which Federal assistance is provided to support work on the underlying contract. City agrees to carry out that work in compliance with the conditions stated in that USDOL letter. The requirements of this subsection, however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 USC Section 5310(a)(2), or for projects for non-urbanized areas authorized by 49 USC Section 5311.
- (D) City also agrees to include any applicable requirements in each subcontract involving transit operations financed in whole or in part with Federal assistance provided by FTA.

### **13. FEDERAL CHANGES**

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