

**MOORPARK CITY COUNCIL  
AGENDA REPORT**

**TO:** The Honorable City Council

**FROM:** Jeremy Laurentowski, Parks and Recreation Director *JL*

**DATE:** January 15, 2014 (CC Meeting of February 5, 2014)

**SUBJECT:** Consider Upgrading the Sewer Lift Station at Arroyo Vista Community Park and Award of Agreement to Travis Agricultural Construction; Upgrading the Irrigation Booster Pumps at Arroyo Vista Community Park with a Variable Frequency Drive System and Award of Agreement to Multi W Systems, Inc.; Replacing the Basketball Court Backboard System, Scoreboard, Vinyl Composite Tile and Bleachers at the Arroyo Vista Recreation Center Gym and Award of Agreement to Irwin Seating Company, Inc.; and Resolution Amending the Fiscal Year 2013/14 Budget by Appropriating \$243,384 from the General Fund Reserve.

**DISCUSSION**

**Upgrading the Sewer Lift Station Pumps at Arroyo Vista Community Park:**

This work was approved by City Council on March 6, 2013. However, due to the complexity of this project, staff retained the services of a consultant that specializes in the construction of sewer lift stations, Multi W Systems, Inc., to prepare plans and specifications for this work prior to obtaining bids. Multi W Systems, Inc. specializes in both engineering and the construction of pump systems. During this process, staff discovered that the three phase power component of this project was not necessary, resulting in substantial cost savings to the City. However, staff also discovered that the current design of the sewer lift station did not meet current building code requirements and several mechanical components of the system are in need of replacement due to the age of the components. A summary of this work follows:

The sewer lift station at Arroyo Vista Community Park (AVCP) is located on the north side of the park entrance and services the restroom facilities, concession buildings, and the Recreation Center buildings within the park grounds. Currently, a 100 ampere (amp), 120/240 Volt (V), single phase electrical service is provided for the sewer pumps, which consist of two, 3 Horse Power (hp) macerator pumps. One pump is designed to

run as the primary pump and the second is a backup pump in case of high flow demand or during an obstruction or malfunction with the primary pump. Since 2010, there have been three separate instances when the backup pump has failed to respond to a high flow alert. Two instances were due to obstructions and one instance was due to a defective relay switch that failed to activate the backup pump. In an effort to minimize emergency response procedures due to system failures, staff physically verifies that the primary and secondary pumps are functional every Saturday, Sunday and Wednesday morning. In addition, the City's contract alarm monitoring company (Bay Alarm) has installed an alarm system that monitors the lift station's high flow switch. However, even with these early notification systems in place, staff feels that the current design of the lift station should be improved to further minimize system failures.

During high use periods, such as the July 3<sup>rd</sup> event or a large soccer tournament, the sewer lines and discharge pumps are maximized, and even if all restroom facilities were immediately shut down once a trouble signal has been detected, the amount of storage within the sewer vault could be exceeded if the backup system was not responsive. The current age and design of the sewer lift station pumps and rail system do not allow for immediate repair of the system, as blockages have to be manually cleared from the macerator pumps. This procedure requires lengthy down time, as most plumbing companies do not have the necessary equipment to respond to these types of emergencies. Generally, a crane and specialized equipment is required to lift the pumps from the station vault to service them. In addition, staff has been informed that the macerator pumps are undersized for the amount of effluent that passes through the system during high use periods. Macerator pumps with more horse power are able to pump more waste and clear larger obstructions than the current pumps can handle.

When the project was presented to City Council in 2013, staff recommended contracting with Southern California Edison (SCE) to install three phase power at a cost of approximately \$25,000. This would enable staff to reverse the polarity of the macerator pumps and back out obstructions. However, staff has discovered that an equally viable solution to the conversion of three phase power is the installation of a Variable Frequency Drive (VFD) that converts the existing single phase electrical service to a three phase electrical supply. In conjunction with two 5 hp, three phase grinder pumps, the VFD system would result in substantial costs savings without compromising the effectiveness of the system. During a system failure, the VFD would enable staff to reverse the polarity of the pumps and back out an obstruction, without having to physically remove the equipment. The current single phase electrical system does not allow for this option and requires down time to service the system. Staff is confident that the proposed upgrades, along with the notification systems already in place, would enable staff to respond to emergencies, repair obstructions with minimal down time, if any, or threat of hazardous material spillage, and reduce future system failures.

During the preparation of the bid documents, it was brought to staff's attention that several of the mechanical components of the lift station have either outlived their life expectancy or do not meet current building code. These components include the

stanchions that enable the pumps to be raised or lowered into the vault, the vault cover, the installation of a vent pipe, and the installation of an auxiliary vault for the pump electrical components.

Staff has obtained three quotes for the proposed sewer lift station improvements at AVCP and has determined that a total cost to complete this work is \$67,965, approximately \$6,210 less than approved by City Council in 2013.

Bid results:

Travis Agriculture Construction	\$59,100
The Pump Man	\$61,664
Multi W Systems, Inc.	\$67,666

Cost summary:

Travis Agriculture Construction (Sewer Pumps w/VFD System)	\$59,100
15% Contingency	\$8,865
Total	\$67,965

**Upgrading the Irrigation Booster Pump Systems at Arroyo Vista Community Park with Variable Frequency Drives:**

This work was approved by City Council on March 6, 2013. However staff also retained the services of Multi W Systems, Inc., to prepare plans and specifications for this work prior to obtaining bids. The following is a summary of this project:

The irrigation system that services Arroyo Vista Community Park receives water from two wells that were installed prior to the purchase of the park property. The park property was originally agricultural in nature and the wells were built to supply the property with an agricultural flood irrigation system. Agricultural irrigation systems are simple in concept and generally consist of an irrigation booster pump that is designed to provide a fixed water supply at a fixed pressure. The two booster pump operating systems that control the irrigation water at AVCP were designed as such, and have not been changed since the park was originally built in 1993. Each system currently provides approximately 350 gallons per minute (gpm) at a set pressure of 110 pounds per square inch (psi). Following the initial construction of the park, additional improvements have been made, such as the east side expansion in 2004, and the irrigation systems that service the park grounds were designed to accommodate the original booster pump system parameters. However, these parameters have proven to be problematic, as they do not allow for adequate scheduling of the irrigation system and have caused extensive damage to the irrigation system pipe, components, and equipment.

Each of the existing well pumps at AVCP is a 40 hp, 480 V submersible booster pump that provides 350 gpm and 110 psi. However, the irrigation valves that have been designed to serve a particular turf or shrub area vary in overall size and demand. As

designed, a typical turf irrigation valve requires approximately 40 to 70 gpm, and a typical shrub irrigation valve varies between 15 and 40 gpm. However, once a valve is turned on, the irrigation booster pump is activated and the system will provide the maximum available supply and pressure, regardless of the system requirements for a particular valve. As a result, as many as 8 irrigation valves need to be scheduled to run simultaneously in order to release the back pressure on the irrigation system. Ideally, the irrigation valves need to equal as close as possible to a combined total demand of 350 gpm. If the system is not timed correctly, the irrigation mainline will fracture due to excessive back pressure, flooding the park and causing extensive damage to the irrigation system. The existing irrigation mainline is 6" diameter polyvinyl chloride (PVC) and has been installed at a depth of approximately 4 feet. Repairs generally require heavy equipment to excavate the damage, and downtime of five to seven days is common. In addition, aging irrigation systems are generally only accurate to within 15% or 20% of their original design intent, and it has become increasingly difficult to manage the system and schedule the irrigation system without damaging the aging equipment. Over time, a 20% variance in actual demand can cause abnormal wear on the system and contribute to system failures.

Since 2011, staff has implemented a turf renovation program for the sport fields at AVCP, which generally consists of closing a large section of the park each year for a four month period. Typical turf renovation procedures include aeration, application of weed abatement procedures, fertilization, applications of sand to improve drainage and re-seeding bare areas. During this time, irrigation use is generally increased and control over individual irrigation valves is crucial. However, due to the booster pump parameters, staff is required to run as many as eight irrigation valves at the same time, which has resulted in a mixed variety of field conditions. Many areas become flooded and overwatered, while others remain overly dry. However, as mentioned previously, the operating system does not allow for scheduling flexibility, as the system will become damaged if the back pressure on the system is not reduced.

Staff has contacted several booster pump manufacturers to discuss these issues and has discovered that the existing booster pumps are in adequate condition, as they were replaced in 2008. In addition, staff contacted Southern California Edison (SCE) to perform an energy efficiency test on the current pumps and was informed that the booster pumps are still within acceptable tolerances and do not warrant replacement at this time. However, the original control panel and operational components of the booster pump systems that were installed in 1994 are outdated, exceed electrical output, do not meet code and are limiting staff's ability to manage the irrigation system and reduce system failures. Staff recommends replacing the current operating system with a variable frequency drive (VFD) system. This VFD system can reduce electrical power consumption by up to 40%, control the variable speed at each booster pump based on the line pressure and current operating parameters at each irrigation valve, instead of supplying the maximum available demand and pressure described. By only supplying the water and pressure needed during an irrigation scheduled run time, staff will have the ability and flexibility to schedule individual valves based on overall turf needs. Most

importantly, this VFD system will reduce energy consumption and relieve the constant back pressure being placed on the system, resulting in a reduction of energy cost, water conservation, and pipe system failures and an extension of the pump life.

It should be noted that the cost to utilize the well water at AVCP for irrigation use is nominal, as the City is not directly charged for the use of the water. However, staff anticipates a 5% reduction in water use due to the fact that the VFD system will enable staff to efficiently schedule the irrigation system based on actual turf needs, rather than the pump system parameters, and will eliminate many of the flooding problems due to overwatering. For reference, staff has estimated that the cost to provide irrigation water at AVCP through a standard potable water source provided by Ventura County Water Works District No.1 would be in the neighborhood of approximately \$250,000 annually.

Staff has obtained quotes to install VFD systems at the two (2) well locations at AVCP and has determined that the total cost to complete this work is approximately \$58,018. Staff estimated that this work would cost approximately \$33,925 when this work was approved by City Council in 2013, an increase of approximately \$16,525. Staff's estimate was based on an estimate obtained by a local contractor. Staff anticipates that this original estimate was low, as the scope of work did not change during the bid process. The contractor that submitted the original quote refrained from submitting a formal bid for this work.

Bid results:

Multi W Systems, Inc.	\$50,450
The Pump Man	\$74,136
Coleman Pacific, Inc.	\$139,400

Cost summary:

Multi W Systems, Inc. (Irrigation Booster Pumps w/VFD System)	\$50,450
15% Contingency	\$7,568
Total	\$58,018

**Replacing the Basketball Court Backboard System, Vinyl Composite Tile, Score Boards and Bleachers at the Arroyo Vista Recreation Center Gym:**

This work was also approved by City Council on March 6, 2013. However, due to the complexity of this project, staff felt that it was necessary to retain the services of a contractor to prepare plans and specifications for this work in order to obtain competitive bids. In addition, during the bid process, staff discovered several additional items that are in need of replacement, such as the score boards and vinyl composite floor tile (VCT). The following is a summary of this project:

The basketball court backboard system that raises and lowers the backboards at the Arroyo Vista Recreation Center (AVRC) gym has outlived its life expectancy and is in need of replacement. This system was originally installed in 1993 during the

construction of the gym facility. Over the years, the electric motors, cables and pulleys that raise and lower the backboards have stretched and worn beyond repair. Currently, the backboards are left in the down position. This has caused some difficulty with the basketball leagues, as the basketball hoops along the side lines of the court occasionally create an obstruction when a full court game is being played. In addition, the design of the system does not account for mechanical safety equipment that has become available since the equipment was originally installed, such as safety straps that inhibit the backboards from free-falling and winch brackets with locking lug nuts, designed to stop bolts from backing out and coming loose.

The two scoreboards and VCT tile installed in the gym are also in need of replacement, as these were also the original backboards and flooring installed in 1993. Since this time, the display panels within the scoreboards have been replaced on two separate instances and the control panel is currently in need of replacement. It was also discovered during the bid process that the VCT tile under the existing bleachers has become damaged due to the mechanical equipment that operates the bleachers. The remaining VCT tile that surrounds the basketball court has started to crack in several areas and the extent of the repairs warrant a complete replacement of the tile.

The three sets of gym bleachers have also outlived their life expectancy, as they were also originally installed during the construction of the gym building in 1993. In addition to needing extensive repairs, such as new motors and wheel sets, they do not meet current accessibility standards as established by the Americans with Disabilities Act (ADA) and they do not conform to current California Building Code (CBC) requirements, particularly the CBC standards for guardrails and handrails. Staff has obtained quotes to retrofit the bleachers with new guardrails and handrails, and has determined that the total cost to repair and retrofit the bleachers is approximately \$24,000. However, retrofitting the bleachers would not allow use of the floor space around the bleachers, as the bleachers would need to be permanently set in the open position. The new handrails and guardrails would not fold as the bleacher seats were put away. In addition, staff is not convinced that retrofitting the bleachers is an acceptable solution based on the age of the bleachers, as modifying the design of the bleachers may affect the structural integrity of the steel framework. Due to the age of the bleachers and the fact that the bleachers will take away usable floor space of the gym, staff recommends replacing the bleachers with new automatic foldable bleachers that meet current CBC and ADA requirements.

Staff has obtained three quotes for new bleachers, including installation and disposal of the existing bleachers, and has determined that the total cost to replace all three sets is \$50,088, approximately \$5,649 less than approved by City Council in 2013. The total cost for all the improvements needed at the AVRC gym follows:

Bid results (bleachers):

Irwin Seating Company, Inc.

VCT tile

\$15,000



The total project cost of \$243,384 was not included in the fiscal year 2013/14 Facilities Division (7620) or Parks Division (7800) expenditure budgets. Staff is requesting an additional appropriation from the General Fund Reserve (1000) in the amount of \$117,401 to the Facilities Division (7620), and to the Parks Division (7800), in the amount of \$125,983.

**STAFF RECOMMENDATION (ROLL CALL VOTE REQUIRED)**

1. Approve upgrading the sewer lift station at Arroyo Vista Community Park and award the Agreement to Travis Agricultural Construction in the amount of \$67,965, which includes a 15% contingency in the amount of \$8,865, and authorize the City Manager to execute the Agreement, subject to final language approval by the City Manager; and
2. Approve upgrading the irrigation booster pump system at Arroyo Vista Community Park with a VFD system and award the Agreement to Multi W Systems, Inc. in the amount of \$58,018, which includes a 15% contingency in the amount of \$7,568, and authorize the City Manager to execute the Agreement, subject to final language approval by the City Manager; and
3. Approve replacing the basketball court backboard system and scoreboards; and
4. Approve replacing the VCT tile and bleachers at the Arroyo Vista Recreation Center Gym and award the Agreement to Irwin Seating Company, Inc. in the amount of \$74,851, which includes a 15% contingency in the amount of \$9,763, and authorize the City Manager to execute the Agreement, subject to final language approval by the City Manager; and
5. Adopt Resolution No. 2014-\_\_\_\_ amending the FY 2013/14 budget to appropriate \$243,384 from the General Fund Reserve (1000) to the Facilities Division (7620), in the amount of \$117,401, and to the Parks Division (7800), in the amount of \$125,983.

Attachment: 1 - Resolution 2014-\_\_\_\_  
2 - Agreement – Travis Agricultural Construction  
3 - Agreement – Multi W Systems  
4 - Agreement – Irwin Seating Company, Inc.

RESOLUTION NO. 2014-\_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, AMENDING THE FISCAL YEAR 2013/14 BUDGET TO ALLOCATE \$243,384 FROM THE GENERAL FUND (1000) TO THE FACILITIES DIVISION (7620), IN THE AMOUNT OF \$117,401, FOR THE REPLACEMENT OF SPORTS EQUIPMENT, BLEACHERS, AND VINYL COMPOSITE TILE (VCT) AT THE ARROYO VISTA RECREATION CENTER GYM; AND TO THE PARKS DIVISION (7800), IN THE AMOUNT OF \$125,983, FOR SEWER LIFT STATION AND WELL PUMP SYSTEM IMPROVEMENTS AT ARROYO VISTA COMMUNITY PARK

WHEREAS, on March 6, 2013, City Council approved staff recommendation to paint the interior of the California Highway Patrol leased space at the Police Services Center and the exterior of the Arroyo Vista Recreation Center; replace the basketball hoop backboards and bleachers at Arroyo Vista Recreation Center gym; and install improvements to the sewer lift station and well pump system at Arroyo Vista Community Park, in the amount of \$220,445; and

WHEREAS, the City Council adopted Resolution No. 2013-3162 amending the FY 2012/13 budget to appropriate \$220,455 from the General Fund (1000) to the Facilities Division (7620) in the amount of \$112,355, and to the Parks Division (7800), in the amount of \$108,100 to fund these projects, and

WHEREAS, with the exception of the painting that was required at the Police Services Center and Arroyo Vista Recreation Center, the remaining projects were not completed in Fiscal Year 2012/13 and funding for the remaining portions of this work was not included in the Fiscal Year 2013/14; and

WHEREAS, on June 19, 2013, the City Council adopted the Operating and Capital Improvement Budget for Fiscal Year 2013/14; and

WHEREAS, a staff report has been presented to City Council discussing the need to replace the basketball hoop backboards, scoreboards, VCT tile and bleachers at Arroyo Vista Recreation Center gym, in the amount of \$117,401, as well as the need to make improvements to the sewer lift station and well pump system at Arroyo Vista Community Park, in the amount of \$125,983; and

WHEREAS, an additional appropriation of \$243,384 is requested from the General Fund (1000) to the Facilities Division (7620) in the amount of \$117,401, and to the Parks Division (7800), in the amount of \$125,983 to fund these projects, and

WHEREAS, Exhibit "A" hereof describes said budget amendment and its resultant impact to the budget line items.

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

SECTION 1. A budget amendment allocating \$243,384 from the General Fund (1000) for sewer lift station and well pump system improvements at Arroyo Vista Community Park; and the replacement of sports equipment, bleachers and VCT tile at the Arroyo Vista Recreation Center gym, as more particularly described in Exhibit "A" attached hereto is hereby approved.

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

PASSED AND ADOPTED this 5<sup>th</sup> day of February, 2014.

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

ATTEST:

\_\_\_\_\_  
Maureen Benson, City Clerk

Attachment: Exhibit A – Budget Amendment

**EXHIBIT A**

**BUDGET AMENDMENT FOR THE GENERAL FUND  
 FOR SEWER LIFT STATION AND WELL PUMP SYSTEM IMPROVEMENTS AT  
 ARROYO VISTA COMMUNITY PARK AND THE REPLACEMENT OF  
 SPORTS EQUIPMENT, BLEACHERS AND VCT TILE AT  
 THE ARROYO VISTA RECREATION CENTER GYM.**

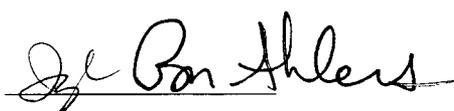
**FY 2013/14**

**FUND ALLOCATION FROM:**

FUND TITLE	FUND ACCOUNT NUMBER	AMOUNT
General Fund	1000-5500	\$243,384
Total		\$243,384

**DISTRIBUTION OF APPROPRIATION TO EXPENSE ACCOUNTS:**

BUDGET NUMBER	CURRENT BUDGET	REVISION	ADJUSTED BUDGET
1000-7620-7701-9502	\$0	\$117,401	\$117,401
1000-7800-7803-9504	\$0	\$125,983	\$125,983
Total	\$0	\$243,384	\$243,384

Finance approval: 

## ATTACHMENT 2

### AGREEMENT BETWEEN THE CITY OF MOORPARK AND TRAVIS AGRICULTURAL CONSTRUCTION, INC., FOR SEWER LIFT IMPROVEMENTS AT ARROYO VISTA COMMUNITY PARK

THIS AGREEMENT, is made and effective as of this \_\_\_\_\_ day of \_\_\_\_\_, 2014, between the City of Moorpark, a municipal corporation ("City") and Travis Agricultural Construction, Inc., a corporation ("Contractor"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

WHEREAS, City has the need for sewer lift improvements at Arroyo Vista Community Park; and

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

WHEREAS, Contractor has submitted to City a Proposal dated September 13, 2013, 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 to completion of the work identified in the Scope of Services and in conformance with Exhibit B, unless this Agreement is terminated or suspended pursuant to this Agreement.

#### 2. SCOPE OF SERVICES

City does hereby retain Contractor, as an independent contractor, in a contractual capacity to provide sewer lift improvements, 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. Contractor shall perform the tasks described and set forth in Exhibit B.

Compensation for the services to be performed by Contractor shall be in accordance with Exhibit B. Compensation shall not exceed the rates or total contract value of fifty nine thousand one hundred dollars (\$59,100.00) as stated in Exhibit B, including a fifteen percent (15%) contingency in the amount of eight thousand eight hundred sixty five dollars (\$8,865.00), for a total of sixty seven thousand nine hundred sixty five dollars (\$67,965.00) without a written Amendment to the Agreement executed by both parties. Payment by City to Contractor shall be in accordance with the provisions of this Agreement.

### 3. PERFORMANCE

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

### 4. MANAGEMENT

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

The City's contact person in charge of administration of this Agreement, and to serve as principal liaison between Contractor and City, shall be the City Manager or 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 Contractor monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B, based upon actual time spent on the above tasks. This amount shall not exceed fifty nine thousand one hundred dollars (\$59,100.00) as stated in Exhibit B, including a fifteen percent (15%) contingency in the amount of eight thousand eight hundred sixty five dollars (\$8,865.00), for a total of sixty seven thousand nine hundred sixty five dollars (\$67,965.00) for the total term of the Agreement unless additional payment is approved as provided in this Agreement.

Contractor shall not be compensated for any services rendered in connection with its performance of this Agreement, which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager. Contractor shall be compensated for any additional services in the amounts and in the manner as agreed to by City Manager and Contractor at the time City's written authorization is given to Contractor for the performance of said services.

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

disputes any of Contractor's fees or expenses it shall give written notice to Contractor 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 Contractor at least ten (10) days prior written notice. Upon receipt of said notice, the Contractor shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the City suspends or terminates a portion of this Agreement such suspension or termination shall not make void or invalidate the remainder of this Agreement.

The Contractor may terminate this Agreement only by providing City with written notice no less than thirty (30) days in advance of such termination.

In the event this Agreement is terminated or suspended pursuant to this Section, the City shall pay to Contractor 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 Contractor will submit an invoice to the City pursuant to this Agreement.

7. DEFAULT OF CONTRACTOR

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

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

8. LIQUIDATED DAMAGES

If the Contractor fails to complete the work, or any portion thereof, within the time period required by this Agreement, or as duly extended in writing by the City Manager, Contractor shall forfeit and pay to the City, as liquidated damages, the sum of one hundred twenty five dollars (\$125.00) per day for each calendar day the work, or portion

thereof, remains uncompleted after the above specified completion date. Liquidated damages shall be deducted from any payments due or to become due to the Contractor under the terms of this Agreement. Progress payments made by the City after the above specified completion date shall not constitute a waiver of liquidated damages by the City.

#### 9. OWNERSHIP OF DOCUMENTS

Contractor shall maintain complete and accurate records with respect to sales, costs, expenses, receipts, and other such information required by City that relate to the performance of services under this Agreement. Contractor shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Contractor shall provide free access to the representatives of City or 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 ten (10) 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 Contractor. With respect to computer files, Contractor shall make available to the City, at the Contractor's office and upon reasonable written request by the City, the necessary computer software and hardware for purposes of accessing, compiling, transferring, and printing computer files.

#### 10. INDEMNIFICATION AND HOLD HARMLESS

Contractor shall indemnify, defend and hold harmless City, and any and all of its officers, employees, and agents ("City Indemnitees") from and against any and all causes of action, claims, liabilities, obligations, judgments, or damages, including reasonable legal counsels' fees and costs of litigation ("claims"), arising out of the Contractor's performance of its obligations under this Agreement or out of the operations conducted by Contractor, including the City's active or passive negligence, except for such loss or damage arising from the sole negligence or willful misconduct of the City. In the event the City Indemnitees are made a party to any action, lawsuit, or other adversarial proceeding arising from Contractor's performance of this Agreement, the Contractor shall provide a defense to the City Indemnitees or at the City's option reimburse the City Indemnitees their costs of defense, including reasonable legal counsels' fees incurred in defense of such claims.

Contractor agrees to obtain executed indemnity agreements with provisions identical to those set forth in this Section from each and every subcontractor, or any other person or entity involved by, for, with, or on behalf of Contractor in the performance of this Agreement. In the event Contractor fails to obtain such indemnity obligations from others as required here, Contractor agrees to be fully responsible according to the terms of this Section. Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend City as set forth here is binding on the successors, assigns, or heirs of Contractor and shall survive the termination of this Agreement or this Section.

City does not and shall not waive any rights that it may have against Contractor 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.

#### 11. INSURANCE

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

#### 12. INDEPENDENT CONTRACTOR

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

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

#### 13. LEGAL RESPONSIBILITIES

The Contractor shall keep itself informed of 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 Contractor shall at all times

observe and comply with all such laws and regulations, including but not limited to the Americans with Disabilities Act and Occupational Health and Safety Administration laws and regulations. The City, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the Contractor to comply with this Section.

14. ANTI DISCRIMINATION

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

15. UNDUE INFLUENCE

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

16. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

No member, officer, or employee of the City, or their designees or agents, and no public official who exercises authority over or responsibilities with respect to the Services during his/her tenure or for one (1) 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.

17. CONFLICT OF INTEREST

The Contractor covenants and agrees that if Contractor and/or its subcontractors intends to provide service or enter into any contract with any developer(s) and/or public agency(ies) owning property and/or processing an entitlement application for property in the City or its Area of Interest, during the Term of this Agreement, Contractor shall immediately notify the City, in writing, informing the City of the nature of the contract. The City Manager shall determine whether potential conflict of interest exists and will assign any work related to the conflict to an alternate contractor.

18. NOTICE

Any notice to be given pursuant to this Agreement shall be in writing, and all such notices and any other document to be delivered shall be delivered by personal service

or by deposit in the United States mail, certified or registered, return receipt requested, with postage prepaid, and addressed to the party for whom intended as follows:

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

To: Travis Bartle, Project Manager  
Travis Agricultural Construction  
P.O. Box 4666  
Ventura, California 93007

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

19. CHANGE IN NAME

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

20. ASSIGNMENT

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

21. LICENSES

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

22. VENUE AND GOVERNING LAW

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

23. COST RECOVERY

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

24. ARBITRATION

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

25. ENTIRE AGREEMENT

This Agreement 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.

26. CAPTIONS OR HEADINGS

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

27. AMENDMENTS

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

28. PRECEDENCE

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

29. INTERPRETATION OF AGREEMENT

Should interpretation of this Agreement, or any portion thereof, be necessary, it is deemed that this Agreement was prepared by the parties jointly and equally, and shall not be interpreted against either party on the ground that the party prepared the Agreement or caused it to be prepared.

30. WAIVER

No waiver of any provision of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any such waiver constitute a continuing or subsequent waiver of the same provision. No waiver shall be binding unless executed in writing by the party making the waiver.

31. AUTHORITY TO EXECUTE

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

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

CITY OF MOORPARK

TRAVIS AGRICULTURAL CONSTRUCTION, INC.

By: \_\_\_\_\_

By: \_\_\_\_\_

Steven Kueny, City Manager

Travis Bartle, Project Manager

Attest:

\_\_\_\_\_  
Maureen Benson, City Clerk

## Exhibit A

### INSURANCE REQUIREMENTS

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

Contractor shall provide the following types and amounts of insurance:

Commercial General Liability Insurance using Insurance Services Office (ISO) "Commercial General Liability" policy form CG 00 01 or the exact equivalent. Defense costs must be paid in addition to limits. There shall be no cross liability exclusion for claims or suits by one insured against another. Limits are subject to review but in no event less than \$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 Contractor owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If Contractor or Contractor's employees will use personal autos in any way on this project, Contractor shall provide evidence of personal auto liability for each such person.

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

Excess or Umbrella Liability Insurance (Over Primary) if used to meet limit requirements, shall provide coverage at least as broad as specified for the underlying coverages. Coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. Policy shall contain a provision obligating insurer at the time insured's liability is determined, not requiring actual payment by the insured first. There shall be no cross liability exclusion precluding coverage for claims or suits by one insured against another. Coverage shall be applicable to the City for injury to employees of Contractor, subcontractors or others involved in the Work. The scope of coverage provided is subject to approval by the City following receipt of proof of insurance as required herein. Limits are subject to review but in no event less than \$1,000,000 aggregate.

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

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

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

premium so paid by the City shall be charged to and promptly paid by Contractor or deducted from sums due Contractor, at the City's option.

8. Certificate(s) are to reflect that the insurer will provide 30 days notice to the City of any cancellation or reduction of coverage. Contractor agrees to require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation 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 Contractor or any subcontractor, is intended to apply first and on a primary, non-contributing basis in relation to any other insurance or self-insurance available to the City.
10. Contractor agrees to ensure that subcontractors, and any other party involved with the Work who is brought onto or involved in the Work by Contractor, provide the same minimum insurance required of Contractor. Contractor agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Contractor agrees that upon request, all agreements with subcontractors and others engaged in the Work will be submitted to the City for review.
11. Contractor agrees not to self-insure or to use any self-insured retentions or deductibles on any portion of the insurance required herein and further agrees that it will not allow any contractor, subcontractor, Architect, Engineer, or other entity or person in any way involved in the performance of Work contemplated by this Agreement to self-insure its obligations to the City. If Contractor's existing coverage includes a deductible or self-insured retention, the deductible or self-insured retention must be declared to the City. At that time, the City shall review options with the Contractor, which may include reduction or elimination of the deductible or self-insured retention, substitution of other coverage, or other solutions.
12. The City reserves the right at any time during the term of the Agreement to change the amounts and types of insurance required by giving the Contractor 90 days advance written notice of such change. If such change results in substantial additional cost to the Contractor, the City will negotiate additional compensation proportional to the increased benefit to the City.
13. For purposes of applying insurance coverage only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or towards performance of this Agreement.
14. Contractor acknowledges and agrees that any actual or alleged failure on the part of the City to inform Contractor of non-compliance with an insurance

requirement in no way imposes any additional obligations to the City nor does it waive any rights hereunder in this or any other regard.

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

assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve the City.

**City of Moorpark, Parks Maintenance Division (Proposal Sheet #2)**

**Arroyo Vista Community Park, Sewer Lift Station Improvements**

LINE	DESCRIPTION; PER THE SPECIFICATIONS LISTED	COST PER UNIT/ INSTALL	MINIMUM QUANTITY	EXTENDED PRICE (cost x quantity)
1.	<p><b>Pump and Control Equipment:</b>                      Submersible grinder pump.                      5HP, 3450RPM, 230V, 60Hz, 3PH XP motor.                      2" discharge. features include: silicon carbide vs silicon carbide for upper and lower mech. seals, thermal sensor embedded in motor windings, and seal probes, w/ 30' power cords, Homa Model GRP34 3 C F 2" Auto Coupling, to include: cast iron elbow base, SS upper rail bracket, and cast iron discharge claw 1" 304 SS pipe SCH40, 10' long (*Length to be verified in field) one per grinder pump- 304 SS lifting chain, 12ft long (*Length to be verified in field) 304 SS chain with weight for submersible transducer and HWA float, 12ft long (*Length to be verified in field), Duplex Alternating control panel, 508UL-listed, 230V 1-Phase Input, 3-Phase Output, to include: 60"Hx36"Wx16"D, 304 Stainless Steel, NEMA 4 enclosure, SCE, P.N: SCE-60EL3616SSLP</p>	\$ 33,000.00	1	\$ 33,000.00

Exhibit B (1 of 3)

2.	<p><b>Field installation work to include:</b> Lockout and tag the power supply. Shut down the entire pump station. Perform- as many confined space entry as required to complete the project. Demo and remove all existing pumps, slide rail system and pipes from wet well. Install new PVC pipes, slide rail system and (2) new pumps in wet well. Install (1) transducer and (1) HWA backup float in wet well. Trench to remove existing electrical conduit from existing control panel to wet well. Replace with (2) 2" PVC electrical conduits from wet well to new control panel. Dirt backfill. Disconnect and remove existing control panel. Install new mounting unistrut at same location for new panel. Install new control panel. Install Auto Transfer Switch next to new control panel. Wires connection on control panel. AIS switch and power supply switch. Wires connection between existing SCADA panel and new control panel. Program and calibrate on level controller at new control panel. Start up the system and test run both pumps in auto and manual mode.</p>	\$ 14,200.00	1	\$ 14,200.00
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3.	<b>Sewer lift cover and hatch replacement work to include:</b> The removal and disposal of existing cover and hatch. Replace with a new ¼ inch thickness stainless steel cover with hatch. The cover shall match existing design round lid with square single hatch. The door hatch shall be 36-inch X 30-inch with channel frame, include fall protection grate, with the ability to latch fall protection grate to the door hatch for access. The door hatch opening shall match the slide rail system for easy removal of pumps. Include a recessed padlock hasp.	\$ 6,600.00	1	\$ 6,600.00
4.	<b>Vent pipe installation work includes:</b> Core into well for 3" vent pipe extended to fence line with raised pipe, all pipe cast iron. The vent pipe will be supported by a 2-inch x 8-foot galvanized pipe within a 2'X3' foot concrete footing, clamped by galvanized metal straps. Uniform Plumbing Code, chapter 9, Sub-chapter 906.4 1997 Edition. "Vent pipes for outdoor installations shall extend at least ten (10) feet above the surrounding ground and shall be securely supported" final location per City approval.	\$ 5,300.00	1	\$ 5,300.00
TOTAL COST ADD LINES 1-4		Total Bid in Numbers: \$ 59,100.00 Total Bid in Words: Fifty nine thousand one hundred dollars		

Estimated quantities are for bid purposes only. The City reserves the right to increase or decrease the quantity of work. Include/Attach one business card or company letterhead.

Travis Bartle, Estimator Travis Agricultural Const. 9-13-13

Name, job title and company

Date



## ATTACHMENT 3

### AGREEMENT BETWEEN THE CITY OF MOORPARK AND MULTI W SYSTEMS, INC., FOR WATER PUMP REPAIR AT ARROYO VISTA COMMUNITY PARK

THIS AGREEMENT, is made and effective as of this \_\_\_\_\_ day of \_\_\_\_\_, 2014, between the City of Moorpark, a municipal corporation ("City") and Multi W Systems, Inc., a corporation ("Contractor"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

WHEREAS, City has the need for water pump repair services at Arroyo Vista Community Park; and

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

WHEREAS, Contractor has submitted to City a Proposal dated August 27, 2013, 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 to completion of the work identified in the Scope of Services and in conformance with Exhibit B, unless this Agreement is terminated or suspended pursuant to this Agreement.

2. SCOPE OF SERVICES

City does hereby retain Contractor, as an independent contractor, in a contractual capacity to provide water pump 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. Contractor shall perform the tasks described and set forth in Exhibit B.

Compensation for the services to be performed by Contractor shall be in accordance with Exhibit B. Compensation shall not exceed the rates or total contract value of fifty thousand four hundred fifty dollars (\$50,450.00) as stated in Exhibit B, including a fifteen percent (15%) contingency in the amount of seven thousand five hundred sixty eight dollars (\$7,568.00), for a total of fifty eight thousand eighteen dollars (\$58,018.00) without a written Amendment to the Agreement executed by both parties. Payment by City to Contractor shall be in accordance with the provisions of this Agreement.

3. PERFORMANCE

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

4. MANAGEMENT

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

The City's contact person in charge of administration of this Agreement, and to serve as principal liaison between Contractor and City, shall be the City Manager or 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 Contractor monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B, based upon actual time spent on the above tasks. This amount shall not exceed fifty thousand four hundred fifty dollars (\$50,450.00) as stated in Exhibit B, including a fifteen percent (15%) contingency in the amount of seven thousand five hundred sixty eight dollars (\$7,568.00), for a total of fifty eight thousand eighteen dollars (\$58,018.00) for the total term of the Agreement unless additional payment is approved as provided in this Agreement.

Contractor shall not be compensated for any services rendered in connection with its performance of this Agreement, which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager. Contractor shall be compensated for any additional services in the amounts and in the manner as agreed to by City Manager and Contractor at the time City's written authorization is given to Contractor for the performance of said services.

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

disputes any of Contractor's fees or expenses it shall give written notice to Contractor 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 Contractor at least ten (10) days prior written notice. Upon receipt of said notice, the Contractor shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the City suspends or terminates a portion of this Agreement such suspension or termination shall not make void or invalidate the remainder of this Agreement.

The Contractor may terminate this Agreement only by providing City with written notice no less than thirty (30) days in advance of such termination.

In the event this Agreement is terminated or suspended pursuant to this Section, the City shall pay to Contractor 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 Contractor will submit an invoice to the City pursuant to this Agreement.

#### 7. DEFAULT OF CONTRACTOR

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

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

#### 8. LIQUIDATED DAMAGES

If the Contractor fails to complete the work, or any portion thereof, within the time period required by this Agreement, or as duly extended in writing by the City Manager, Contractor shall forfeit and pay to the City, as liquidated damages, the sum of one hundred twenty five dollars (\$125.00) per day for each calendar day the work, or portion

thereof, remains uncompleted after the above specified completion date. Liquidated damages shall be deducted from any payments due or to become due to the Contractor under the terms of this Agreement. Progress payments made by the City after the above specified completion date shall not constitute a waiver of liquidated damages by the City.

#### 9. OWNERSHIP OF DOCUMENTS

Contractor shall maintain complete and accurate records with respect to sales, costs, expenses, receipts, and other such information required by City that relate to the performance of services under this Agreement. Contractor shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Contractor shall provide free access to the representatives of City or 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 ten (10) 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 Contractor. With respect to computer files, Contractor shall make available to the City, at the Contractor's office and upon reasonable written request by the City, the necessary computer software and hardware for purposes of accessing, compiling, transferring, and printing computer files.

#### 10. INDEMNIFICATION AND HOLD HARMLESS

Contractor shall indemnify, defend and hold harmless City, and any and all of its officers, employees, and agents ("City Indemnitees") from and against any and all causes of action, claims, liabilities, obligations, judgments, or damages, including reasonable legal counsels' fees and costs of litigation ("claims"), arising out of the Contractor's performance of its obligations under this Agreement or out of the operations conducted by Contractor, including the City's active or passive negligence, except for such loss or damage arising from the sole negligence or willful misconduct of the City. In the event the City Indemnitees are made a party to any action, lawsuit, or other adversarial proceeding arising from Contractor's performance of this Agreement, the Contractor shall provide a defense to the City Indemnitees or at the City's option reimburse the City Indemnitees their costs of defense, including reasonable legal counsels' fees incurred in defense of such claims.

Contractor agrees to obtain executed indemnity agreements with provisions identical to those set forth in this Section from each and every subcontractor, or any other person or entity involved by, for, with, or on behalf of Contractor in the performance of this Agreement. In the event Contractor fails to obtain such indemnity obligations from others as required here, Contractor agrees to be fully responsible according to the terms of this Section. Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend City as set forth here is binding on the successors, assigns, or heirs of Contractor and shall survive the termination of this Agreement or this Section.

City does not and shall not waive any rights that it may have against Contractor 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.

#### 11. INSURANCE

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

#### 12. INDEPENDENT CONTRACTOR

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

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

#### 13. LEGAL RESPONSIBILITIES

The Contractor shall keep itself informed of 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 Contractor shall at all times

observe and comply with all such laws and regulations, including but not limited to the Americans with Disabilities Act and Occupational Health and Safety Administration laws and regulations. The City, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the Contractor to comply with this Section.

14. ANTI DISCRIMINATION

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

15. UNDUE INFLUENCE

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

16. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

No member, officer, or employee of the City, or their designees or agents, and no public official who exercises authority over or responsibilities with respect to the Services during his/her tenure or for one (1) 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.

17. CONFLICT OF INTEREST

The Contractor covenants and agrees that if Contractor and/or its subcontractors intends to provide service or enter into any contract with any developer(s) and/or public agency(ies) owning property and/or processing an entitlement application for property in the City or its Area of Interest, during the Term of this Agreement, Contractor shall immediately notify the City, in writing, informing the City of the nature of the contract. The City Manager shall determine whether potential conflict of interest exists and will assign any work related to the conflict to an alternate contractor.

18. NOTICE

Any notice to be given pursuant to this Agreement shall be in writing, and all such notices and any other document to be delivered shall be delivered by personal service

or by deposit in the United States mail, certified or registered, return receipt requested, with postage prepaid, and addressed to the party for whom intended as follows:

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

To: Mike Gan, Chief Engineer  
Multi W Systems, Inc.  
2615 Strozier Avenue  
El Monte, California 91733

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

19. CHANGE IN NAME

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

20. ASSIGNMENT

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

21. LICENSES

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

22. VENUE AND GOVERNING LAW

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

23. COST RECOVERY

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

24. ARBITRATION

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

25. ENTIRE AGREEMENT

This Agreement 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.

26. CAPTIONS OR HEADINGS

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

27. AMENDMENTS

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

28. PRECEDENCE

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

29. INTERPRETATION OF AGREEMENT

Should interpretation of this Agreement, or any portion thereof, be necessary, it is deemed that this Agreement was prepared by the parties jointly and equally, and shall not be interpreted against either party on the ground that the party prepared the Agreement or caused it to be prepared.

30. WAIVER

No waiver of any provision of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any such waiver constitute a continuing or subsequent waiver of the same provision. No waiver shall be binding unless executed in writing by the party making the waiver.

31. AUTHORITY TO EXECUTE

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

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

CITY OF MOORPARK

MULTI W SYSTEMS, INC.

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

By: \_\_\_\_\_  
Mike Gan, Chief Engineer

Attest:

\_\_\_\_\_  
Maureen Benson, City Clerk

## Exhibit A

### INSURANCE REQUIREMENTS

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

Contractor shall provide the following types and amounts of insurance:

Commercial General Liability Insurance using Insurance Services Office (ISO) "Commercial General Liability" policy form CG 00 01 or the exact equivalent. Defense costs must be paid in addition to limits. There shall be no cross liability exclusion for claims or suits by one insured against another. Limits are subject to review but in no event less than \$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 Contractor owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If Contractor or Contractor's employees will use personal autos in any way on this project, Contractor shall provide evidence of personal auto liability for each such person.

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

Excess or Umbrella Liability Insurance (Over Primary) if used to meet limit requirements, shall provide coverage at least as broad as specified for the underlying coverages. Coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. Policy shall contain a provision obligating insurer at the time insured's liability is determined, not requiring actual payment by the insured first. There shall be no cross liability exclusion precluding coverage for claims or suits by one insured against another. Coverage shall be applicable to the City for injury to employees of Contractor, subcontractors or others involved in the Work. The scope of coverage provided is subject to approval by the City following receipt of proof of insurance as required herein. Limits are subject to review but in no event less than \$1,000,000 aggregate.

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

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

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

premium so paid by the City shall be charged to and promptly paid by Contractor or deducted from sums due Contractor, at the City's option.

8. Certificate(s) are to reflect that the insurer will provide 30 days notice to the City of any cancellation or reduction of coverage. Contractor agrees to require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation 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 Contractor or any subcontractor, is intended to apply first and on a primary, non-contributing basis in relation to any other insurance or self-insurance available to the City.
10. Contractor agrees to ensure that subcontractors, and any other party involved with the Work who is brought onto or involved in the Work by Contractor, provide the same minimum insurance required of Contractor. Contractor agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Contractor agrees that upon request, all agreements with subcontractors and others engaged in the Work will be submitted to the City for review.
11. Contractor agrees not to self-insure or to use any self-insured retentions or deductibles on any portion of the insurance required herein and further agrees that it will not allow any contractor, subcontractor, Architect, Engineer, or other entity or person in any way involved in the performance of Work contemplated by this Agreement to self-insure its obligations to the City. If Contractor's existing coverage includes a deductible or self-insured retention, the deductible or self-insured retention must be declared to the City. At that time, the City shall review options with the Contractor, which may include reduction or elimination of the deductible or self-insured retention, substitution of other coverage, or other solutions.
12. The City reserves the right at any time during the term of the Agreement to change the amounts and types of insurance required by giving the Contractor 90 days advance written notice of such change. If such change results in substantial additional cost to the Contractor, the City will negotiate additional compensation proportional to the increased benefit to the City.
13. For purposes of applying insurance coverage only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or towards performance of this Agreement.
14. Contractor acknowledges and agrees that any actual or alleged failure on the part of the City to inform Contractor of non-compliance with an insurance

requirement in no way imposes any additional obligations to the City nor does it waive any rights hereunder in this or any other regard.

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

assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve the City.

**City of Moorpark, Parks Maintenance Division**

The Arroyo Vista Community Center, Irrigation water pump control panel installation will include a Variable Frequency Drive (VFD), for two pumps at well 1, and 3.

<b>LINE</b>	<b>DESCRIPTION; PER THE SPECIFICATIONS LISTED</b>	<b><u>COST PER UNIT/INSTALL</u></b>	<b><u>MINIMUM QUANTITY</u> (2)</b>	<b><u>EXTENDED PRICE</u> (cost x quantity)</b>
1.	VFD Simplex Irrigation water pump control panel, 508UL listed to Include 42"Lx37"Wx12"H304 stainless steel enclosure, NEMA 4, P/N: SCE-42XEL3712SSLP.	\$13,975.00	2	\$ 27,950.00  (sales tax included)
2.	Field Installation; Lockout and tag the power supply, Disconnect and remove existing pump control panel, Extend existing mounting bracket with unistrut for new panel, Install pressure transducer and flow transmitter at discharge pipe, Install electrical flexible conduit and wires from existing safety switch to new panel, Electrical wire connections at new panel, Field calibration and parameters programming on PLC and VFD Field, PLC tuning start-up the pump with new control system.	\$11,250.00	2	\$ 22,500.00
<b>TOTAL COST ADD LINES</b> 1-2		Total Bid in Numbers: \$ 50,450.00		
		Total Bid in Words: Fifty Thousands Four Hundreds And Fifty Dollar		

**Estimated quantities are for bid purposes only. The City reserves the right to increase or decrease the quantity of work. Include/Attach one business card or company letterhead.**

Mike Gan, Chief Engineer, Multi W Systems, Inc.      8/27/13  
 Name, job title and company      Date

**AGREEMENT BETWEEN THE CITY OF MOORPARK AND  
IRWIN SEATING COMPANY, INC., FOR BLEACHER AND FLOORING SERVICES  
AT ARROYO VISTA RECREATION CENTER GYM**

THIS AGREEMENT, is made and effective as of this \_\_\_\_\_ day of \_\_\_\_\_, 2014, between the City of Moorpark, a municipal corporation ("City") and Irwin Seating Company, Inc., a corporation ("Contractor"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

WHEREAS, City has the need for bleacher and flooring services at the Arroyo Vista Recreation Center gym; and

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

WHEREAS, Contractor has submitted to City a Proposal dated December 19, 2013, 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 to completion of the work identified in the Scope of Services and in conformance with Exhibit B, unless this Agreement is terminated or suspended pursuant to this Agreement.

2. SCOPE OF SERVICES

City does hereby retain Contractor, as an independent contractor, in a contractual capacity to provide bleacher and floor 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. Contractor shall perform the tasks described and set forth in Exhibit B.

Compensation for the services to be performed by Contractor shall be in accordance with Exhibit B. Compensation shall not exceed the rates or total contract value of sixty five thousand eighty eight dollars (\$65,088.00) as stated in Exhibit B, including a fifteen percent (15%) contingency in the amount of nine thousand seven hundred sixty three dollars (\$9,763.00), for a total of seventy four thousand eight hundred fifty one dollars (\$74,851.00) without a written Amendment to the Agreement executed by both parties. Payment by City to Contractor shall be in accordance with the provisions of this Agreement.

executed by both parties. Payment by City to Contractor shall be in accordance with the provisions of this Agreement.

### 3. PERFORMANCE

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

### 4. MANAGEMENT

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

The City's contact person in charge of administration of this Agreement, and to serve as principal liaison between Contractor and City, shall be the City Manager or 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 Contractor monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B, based upon actual time spent on the above tasks. This amount shall not exceed sixty five thousand eighty eight dollars (\$65,088.00) as stated in Exhibit B, including a fifteen percent (15%) contingency in the amount of nine thousand seven hundred sixty three dollars (\$9,763.00), for a total of seventy four thousand eight hundred fifty one dollars (\$74,851.00) for the total term of the Agreement unless additional payment is approved as provided in this Agreement.

Contractor shall not be compensated for any services rendered in connection with its performance of this Agreement, which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager. Contractor shall be compensated for any additional services in the amounts and in the manner as agreed to by City Manager and Contractor at the time City's written authorization is given to Contractor for the performance of said services.

Contractor shall submit invoices monthly for actual services performed. Invoices shall be submitted on or about the first business day of each month, or as soon thereafter as practical, for services provided in the previous month. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. Any expense or reimbursable cost appearing on any invoice shall be accompanied by a

receipt or other documentation subject to approval of the City Manager. If the City disputes any of Contractor's fees or expenses it shall give written notice to Contractor 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 Contractor at least ten (10) days prior written notice. Upon receipt of said notice, the Contractor shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the City suspends or terminates a portion of this Agreement such suspension or termination shall not make void or invalidate the remainder of this Agreement.

The Contractor may terminate this Agreement only by providing City with written notice no less than thirty (30) days in advance of such termination.

In the event this Agreement is terminated or suspended pursuant to this Section, the City shall pay to Contractor 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 Contractor will submit an invoice to the City pursuant to this Agreement.

#### 7. DEFAULT OF CONTRACTOR

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

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

#### 8. LIQUIDATED DAMAGES

If the Contractor fails to complete the work, or any portion thereof, within the time period required by this Agreement, or as duly extended in writing by the City Manager, Contractor shall forfeit and pay to the City, as liquidated damages, the sum of one

hundred twenty five dollars (\$125.00) per day for each calendar day the work, or portion thereof, remains uncompleted after the above specified completion date. Liquidated damages shall be deducted from any payments due or to become due to the Contractor under the terms of this Agreement. Progress payments made by the City after the above specified completion date shall not constitute a waiver of liquidated damages by the City.

#### 9. OWNERSHIP OF DOCUMENTS

Contractor shall maintain complete and accurate records with respect to sales, costs, expenses, receipts, and other such information required by City that relate to the performance of services under this Agreement. Contractor shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Contractor shall provide free access to the representatives of City or 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 ten (10) 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 Contractor. With respect to computer files, Contractor shall make available to the City, at the Contractor's office and upon reasonable written request by the City, the necessary computer software and hardware for purposes of accessing, compiling, transferring, and printing computer files.

#### 10. INDEMNIFICATION AND HOLD HARMLESS

Contractor shall indemnify, defend and hold harmless City, and any and all of its officers, employees, and agents ("City Indemnitees") from and against any and all causes of action, claims, liabilities, obligations, judgments, or damages, including reasonable legal counsels' fees and costs of litigation ("claims"), arising out of the Contractor's performance of its obligations under this Agreement or out of the operations conducted by Contractor, including the City's active or passive negligence, except for such loss or damage arising from the sole negligence or willful misconduct of the City. In the event the City Indemnitees are made a party to any action, lawsuit, or other adversarial proceeding arising from Contractor's performance of this Agreement, the Contractor shall provide a defense to the City Indemnitees or at the City's option reimburse the City Indemnitees their costs of defense, including reasonable legal counsels' fees incurred in defense of such claims.

Contractor agrees to obtain executed indemnity agreements with provisions identical to those set forth in this Section from each and every subcontractor, or any other person or entity involved by, for, with, or on behalf of Contractor in the performance of this Agreement. In the event Contractor fails to obtain such indemnity obligations from others as required here, Contractor agrees to be fully responsible according to the terms of this Section. Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend City as set forth here is binding on the successors, assigns, or heirs of Contractor and shall survive the termination of this Agreement or this Section.

City does not and shall not waive any rights that it may have against Contractor 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.

#### 11. INSURANCE

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

#### 12. INDEPENDENT CONTRACTOR

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

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

#### 13. LEGAL RESPONSIBILITIES

The Contractor shall keep itself informed of 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 Contractor shall at all times

observe and comply with all such laws and regulations, including but not limited to the Americans with Disabilities Act and Occupational Health and Safety Administration laws and regulations. The City, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the Contractor to comply with this Section.

14. ANTI DISCRIMINATION

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

15. UNDUE INFLUENCE

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

16. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

No member, officer, or employee of the City, or their designees or agents, and no public official who exercises authority over or responsibilities with respect to the Services during his/her tenure or for one (1) 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.

17. CONFLICT OF INTEREST

The Contractor covenants and agrees that if Contractor and/or its subcontractors intends to provide service or enter into any contract with any developer(s) and/or public agency(ies) owning property and/or processing an entitlement application for property in the City or its Area of Interest, during the Term of this Agreement, Contractor shall immediately notify the City, in writing, informing the City of the nature of the contract. The City Manager shall determine whether potential conflict of interest exists and will assign any work related to the conflict to an alternate contractor.

18. NOTICE

Any notice to be given pursuant to this Agreement shall be in writing, and all such notices and any other document to be delivered shall be delivered by personal service

or by deposit in the United States mail, certified or registered, return receipt requested, with postage prepaid, and addressed to the party for whom intended as follows:

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

To: Larry Conner, Vice President  
Irwin Seating Company, Inc.  
610 E. Cumberland Road  
Altamont, Illinois 62411

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

19. CHANGE IN NAME

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

20. ASSIGNMENT

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

21. LICENSES

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

22. VENUE AND GOVERNING LAW

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

23. COST RECOVERY

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

24. ARBITRATION

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

25. ENTIRE AGREEMENT

This Agreement 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.

26. CAPTIONS OR HEADINGS

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

27. AMENDMENTS

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

28. PRECEDENCE

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

29. INTERPRETATION OF AGREEMENT

Should interpretation of this Agreement, or any portion thereof, be necessary, it is deemed that this Agreement was prepared by the parties jointly and equally, and shall not be interpreted against either party on the ground that the party prepared the Agreement or caused it to be prepared.

30. WAIVER

No waiver of any provision of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any such waiver constitute a continuing or subsequent waiver of the same provision. No waiver shall be binding unless executed in writing by the party making the waiver.

31. AUTHORITY TO EXECUTE

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

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

CITY OF MOORPARK

IRWIN SEATING COMPANY, INC.

By: \_\_\_\_\_

By: \_\_\_\_\_

Steven Kueny, City Manager

Larry Conner, Vice President

Attest:

\_\_\_\_\_  
Maureen Benson, City Clerk

## Exhibit A

### INSURANCE REQUIREMENTS

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

Contractor shall provide the following types and amounts of insurance:

Commercial General Liability Insurance using Insurance Services Office (ISO) "Commercial General Liability" policy form CG 00 01 or the exact equivalent. Defense costs must be paid in addition to limits. There shall be no cross liability exclusion for claims or suits by one insured against another. Limits are subject to review but in no event less than \$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 Contractor owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If Contractor or Contractor's employees will use personal autos in any way on this project, Contractor shall provide evidence of personal auto liability for each such person.

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

Excess or Umbrella Liability Insurance (Over Primary) if used to meet limit requirements, shall provide coverage at least as broad as specified for the underlying coverages. Coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. Policy shall contain a provision obligating insurer at the time insured's liability is determined, not requiring actual payment by the insured first. There shall be no cross liability exclusion precluding coverage for claims or suits by one insured against another. Coverage shall be applicable to the City for injury to employees of Contractor, subcontractors or others involved in the Work. The scope of coverage provided is subject to approval by the City following receipt of proof of insurance as required herein. Limits are subject to review but in no event less than \$1,000,000 aggregate.

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

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

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

premium so paid by the City shall be charged to and promptly paid by Contractor or deducted from sums due Contractor, at the City's option.

8. Certificate(s) are to reflect that the insurer will provide 30 days notice to the City of any cancellation or reduction of coverage. Contractor agrees to require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation 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 Contractor or any subcontractor, is intended to apply first and on a primary, non-contributing basis in relation to any other insurance or self-insurance available to the City.
10. Contractor agrees to ensure that subcontractors, and any other party involved with the Work who is brought onto or involved in the Work by Contractor, provide the same minimum insurance required of Contractor. Contractor agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Contractor agrees that upon request, all agreements with subcontractors and others engaged in the Work will be submitted to the City for review.
11. Contractor agrees not to self-insure or to use any self-insured retentions or deductibles on any portion of the insurance required herein and further agrees that it will not allow any contractor, subcontractor, Architect, Engineer, or other entity or person in any way involved in the performance of Work contemplated by this Agreement to self-insure its obligations to the City. If Contractor's existing coverage includes a deductible or self-insured retention, the deductible or self-insured retention must be declared to the City. At that time, the City shall review options with the Contractor, which may include reduction or elimination of the deductible or self-insured retention, substitution of other coverage, or other solutions.
12. The City reserves the right at any time during the term of the Agreement to change the amounts and types of insurance required by giving the Contractor 90 days advance written notice of such change. If such change results in substantial additional cost to the Contractor, the City will negotiate additional compensation proportional to the increased benefit to the City.
13. For purposes of applying insurance coverage only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or towards performance of this Agreement.
14. Contractor acknowledges and agrees that any actual or alleged failure on the part of the City to inform Contractor of non-compliance with an insurance

requirement in no way imposes any additional obligations to the City nor does it waive any rights hereunder in this or any other regard.

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

assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve the City.

**ATTACHMENT 1**

**BID PROPOSAL**

TO BE EXECUTED  
BY BIDDER AND SUBMITTED WITH BID

CITY OF MOORPARK  
MOORPARK, CALIFORNIA

New Bleacher and Flooring Installation at Arroyo Vista Community Park  
4550 Tierra Rejada Road  
Moorpark, California

Bids to Be Received – December 19, 2013, by 3:00 p.m.

IRWIN SEATING COMPANY  
CONTRACTOR

Name IRWIN SEATING COMPANY

Street Address 610 E. CUMBERLAND ROAD

City ALTAMONT State IL Zip Code 62411

Telephone Number \_\_\_\_\_  
Contractor's License No 436516 Class CG1/D34, Expiration Date 10/31/2015

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

Signature of Bidder Jerry R. Cana Title VICE PRESIDENT

**PROPOSED SCHEDULE OF WORK AND PRICES – SCHEDULE A**

**AVCP Gym Bleachers and Flooring**

Item	Description	Qty	Unit	Total
1	Remove/Replace Linoleum Tile	1	LS	15,000 <sup>00</sup>
1	Remove/Replace telescoping bleachers	1	LS	50,088 <sup>00</sup>

Fifteen thousand dollars  
Fifty thousand eighty-eight dollars

Total Amount of Bid \$ 65,088<sup>00</sup>  
Sixty-Five thousand, eighty-eight dollars

Number of calendar days for completion: 60-90 (pending SITE CONDITIONS & CUSTOMER Approvals)

JANICE S. PARVIN Mayor      ROSEANN MIKOS, Ph.D. Councilmember      KEITH F. MILLHOUSE Councilmember      DAVID POLLOCK Councilmember      MARK VAN DAM Councilmember