



**CITY OF LODI  
COUNCIL COMMUNICATION**

**AGENDA TITLE:** Adopt Resolution Authorizing City Manager to Execute a Contract for the Phase 3 Grape Bowl Improvement Project with Diede Construction, Inc., of Woodbridge (\$1,327,000) and a Professional Services Agreement for Grape Bowl Lighting Improvements with Musco Lighting, of Oskaloosa, Iowa (\$42,693) and to Approve an Inter-Fund Loan Agreement (\$675,000) and Appropriating Funds (\$1,364,032)

**MEETING DATE:** October 17, 2012

**PREPARED BY:** Public Works Director

**RECOMMENDED ACTION:** Adopt resolution authorizing City Manager to execute a contract for the Phase 3 Grape Bowl improvement project with Diede Construction, Inc., of Woodbridge, in the amount of \$1,327,000, and a professional services agreement for Grape Bowl lighting improvements with Musco Lighting, of Oskaloosa, Iowa, in the amount of \$42,693, and to approve an inter-fund loan agreement in the amount of \$675,000, and appropriating funds in the amount of \$1,364,032.

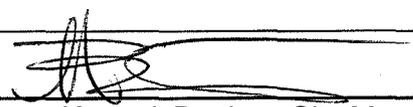
**BACKGROUND INFORMATION:** The Phase 3 Grape Bowl improvements consist of constructing an Americans with Disabilities Act (ADA) accessible ramp to the south-side upper concourse; ADA seating at the south-side upper concourse; concrete plaza area; concession, restroom and ticket building; landscape; irrigation and other related facilities.

Plans and specifications for the project were approved on August 1, 2012. The City received the following five bids for this project on September 26, 2012. The award is based on the Base Bid amount. The lowest responsive bidder, Diede Construction, Inc., has signed the required Local Hire forms and agreed to attempt to employ local hires in its workforce and the workforce of its subcontractors. The Engineer's Estimate for the Base Bid work is \$1,362,319.

Bidder	Location	Base Bid	Base Bid + Alt. Bid A
Diede Construction, Inc.	Woodbridge	\$1,292,500	\$1,327,000
John F. Otto Construction	Sacramento	\$1,367,996	\$1,385,785
Seward L. Scheder Construction	Redding	\$1,490,884	\$1,514,146
A.M. Stephens Construction	Lodi	\$1,498,800	\$1,519,800
MCI Engineering	Stockton	\$1,591,000	\$1,626,000

To complete access around the perimeter of the playing field, staff included Alternate Bid Item A to install a six-inch thick concrete apron around the westerly end of the field. The bid price submitted by Diede Construction, Inc., for Alternate Bid Item A is \$34,500. Staff recommends awarding the construction contract to Diede Construction, Inc., including Alternate Bid Item A, for a total contract amount of \$1,327,000.

Additional light fixtures are required to meet ADA minimum-lighting standards for the new improvements and will be procured separately from Musco Lighting, the vendor that installed the existing lights by sole source contract. The work consists of installing two 1,000-watt fixtures at each of the four outermost light towers (eight fixtures total) and adding a 125-amp breaker to an existing electrical panel. The cost for this work is \$42,693.

APPROVED:   
Konradt Bartlam, City Manager

Adopt Resolution Authorizing City Manager to Execute a Contract for the Phase 3 Grape Bowl Improvement Project with Diede Construction, Inc., of Woodbridge (\$1,327,000) and a Professional Services Agreement for Grape Bowl Lighting Improvements with Musco Lighting, of Oskaloosa, Iowa (\$42,693) and to Approve an Inter-Fund Loan Agreement (\$675,000) and Appropriating Funds (\$1,364,032)

October 17, 2012

Page 2

Lodi Municipal Code 3.20.070 allows the dispensing of bids when City Council determines it is the best method of purchase. Staff recommends the non-competitive purchase and installation of Musco ADA-required lighting improvements as described in the professional services agreement provided in Exhibit A.

Staff will utilize the firm of Neil O. Anderson & Associates for materials testing and geotechnical services for the Phase 3 improvements. This local firm prepared the geotechnical soils report for the design phase of the project. A portion of the requested appropriation will fund an existing professional services agreement for these services. The amount is not expected to exceed \$25,000.

The total budget for the project is \$1,700,000, as summarized in Exhibit B. It includes construction of the Phase 3 improvements, ADA lighting improvements, materials testing, construction management by City staff, permit fees, construction contingencies and other project-related expenses.

An inter-fund loan to Parks Capital from Wastewater Capital in the amount of \$675,000 is needed to fully fund the project and requires an inter-fund loan agreement be established. The interest charge will be set at the Local Agency Investment Fund rate. The term of the loan will be 63 months. Funds to repay the inter-fund loan will come from the remaining Waste Management Donation of \$675,000.

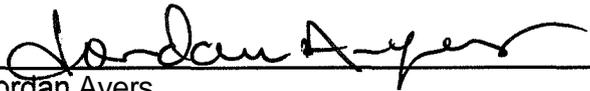
**FISCAL IMPACT:** Construction of the Phase 3 improvements will provide additional sponsorship and naming opportunities intended to generate revenues for constructing additional improvements at the Grape Bowl. Annual operation and maintenance costs will be slightly higher but may be offset by additional facility rental revenues.

<b>FUNDING AVAILABLE:</b>	CDBG Funds (4591211) <sup>1</sup>	\$ 335,968
	<u>Requested Appropriation:</u>	
	Friends of the Grape Bowl Donations (1212811)	\$ 178,000
	Waste Management Donation (to date) (1212811) <sup>2</sup>	\$ 325,000
	Metro PCS Donation (1212811)	\$ 35,000
	CDBG Funds (4591103) <sup>3</sup>	\$ 136,716
	Parks Capital Fund (1212811)	\$ 14,316
	Wastewater Capital Fund (171)	\$ 675,000
	Total Appropriation Request:	\$1,364,032
	TOTAL	\$1,700,000

<sup>1</sup>Supplemental allocation to Grape Bowl approved by Council on September 19, 2012

<sup>2</sup> Amount of Waste Management donations received through September 2012. Sixty-three payments of \$10,714.29 remain totaling \$675,000. These funds will repay, with interest, the loan from the Wastewater Capital Fund.

<sup>3</sup>Re-appropriation of 2011 CDBG allocation to Grape Bowl

  
Jordan Ayers  
Deputy City Manager/Internal Services Director

  
P. Walby  
Director

Prepared by Charles E. Swimley, Jr., City Engineer/Deputy Public Works Director

FWS/CES/pmf

Attachments

cc: Neighborhood Services Manager

K:\WP\PROJECTS\PARKS\GrapeBowl\Phase 3 Improvements\CAward.doc

10/10/2012



Quote

**Grape Bowl ADA Lighting  
Lodi, California  
Date: September 18, 2012  
To: Steve Virrey**

Quotation Price

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Musco's Light Structure Green™ lighting system as described below to the job site.

Application is to add two 1000 watt fixtures to poles F1, F3, F4 and F6, using the existing electrical wiring, and installing one 125 amp breaker in the existing electrical panel. The lighting is being provided for the pathway at Grape Bowl facility as per lighting design 156005R2 completed on September 10, 2012.

Total Price including tax:	\$42,693.00
Equipment cost FOB:	\$17,915.00
Install cost:	\$23,389.59
Tax:	\$1,388.41

Equipment Description

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SportsCluster Green™ System delivered to your site

- Factory aimed and assembled pole top luminaire assemblies
- (8) 1000-watt metal halide fixtures
- UL Listed remote electrical component enclosures
- Mounting hardware for the pole top units and electrical component enclosures
- Pole length wire harness
- Disconnects

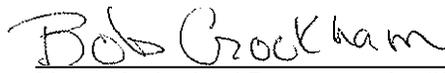
Also includes:

- Energy savings of more than 50% over standard lighting system
- 10-Year warranty including ten years parts, two years labor. Lamps are warranted for two years, with the first year including lamps and labor, and the second year lamps only

Delivery to the job site from the time of order, submittal approval, and confirmation of order details including voltage and phase, pole locations is approximately **30-45** days. Due to the built-in custom light control per luminaire, pole locations need to be confirmed prior to production. Changes to pole locations after the product is sent to production could result in additional charges.

Thank you for considering Musco for your sports-lighting needs. Please contact me with any questions

Bob Crookham  
Sales Representative  
Musco Sports Lighting, LLC  
Phone: 530/672-9500  
E-mail: bob.crookham@musco.com  
Fax: 530/672-9471

  
Musco Authorized Representative Signature

City Of Lodi  
 Grape Bowl Phase 3 Improvements  
 September 2012

**EXHIBIT B**

Budget Item	Amount
<b>Construction</b>	
Site Acquisition (None)	\$0
Wastewater Connection Fee	\$0
Impact Mitigation Fees	\$0
RTIF Fees	\$0
Utility Services (PG&E, EUD)	\$5,000
COG Habitat Fees	\$0
Construction Contract (Bid Amount)	\$1,327,000
Plan Check/Permit Fee (Building Dept.)	\$27,000
Plan Check/Permit Fee (Public Works)	\$20,000
Plan Printing Costs (Stockton Blue)	\$3,000
Project Management (City Staff)	\$75,000
Copy/Shipping Expenses Estimate	\$4,455
Environmental Inspection	\$9,000
<b>Construction Total</b>	<b>\$1,470,455</b>
<b>Equipment Purchase</b>	
<b>Budget</b>	
ADA Lighting and Installation	\$50,000
<b>Equipment Total</b>	<b>\$50,000</b>
<b>Engineering Services</b>	
<b>Amount</b>	
Materials Testing	\$25,000
<b>Engineering Total</b>	<b>\$25,000</b>
<b>Total</b>	<b>\$1,545,455</b>
<b>Project Contingency</b>	<b>\$154,545</b>

10%

**Phase 3 Project Total Budget                    \$1,700,000**

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CITY OF LODI, CALIFORNIA

THIS CONTRACT made by and between the CITY OF LODI, State of California, herein referred to as the "City," and DIEDE CONSTRUCTION, INC., herein referred to as the "Contractor."

WITNESSETH:

That the parties hereto have mutually covenanted and agreed, and by these presents do covenant and agree with each other, as follows:

The complete Contract consists of the following documents which are incorporated herein by this reference, to-wit:

Notice Inviting Bids	Current Edition,
Information to Bidders	Standard Specifications,
General Provisions	State of California,
Special Provisions	Business and Transportation Agency,
Bid Proposal	Department of Transportation
Contract	
Contract Bonds	
Plans	

All of the above documents, sometimes hereinafter referred to as the "Contract Documents," are intended to cooperate so that any work called for in one and not mentioned in the other is to be executed the same as if mentioned in all said documents.

ARTICLE I - That for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the City and under the condition expressed in the two bonds bearing even date with these presents and hereunto annexed, the Contractor agrees with the City, at Contractor's cost and expense, to do all the work and furnish all the materials except such as are mentioned in the specifications to be furnished by the City, necessary to construct and complete in a good workmanlike and substantial manner and to the satisfaction of the City the proposed improvements as shown and described in the Contract Documents which are hereby made a part of the Contract.

ARTICLE II - The City hereby promises and agrees with the Contractor to employ, and does hereby employ, the Contractor to provide all materials and services not supplied by the City and to do the work according to the terms and conditions for the price herein, and hereby contracts to pay the same as set forth in the General Provisions, in the manner and upon the conditions above set forth; and the said parties for themselves, their heirs, executors, administrators, successors and assigns, do hereby agree to the full performance of the covenants herein contained.

ARTICLE III - The Contractor agrees to conform to the provisions of Chapter 1, Part 7, Division 2 of the Labor Code. The Contractor and any Subcontractor will pay the general prevailing wage rate and other employer payments for health and welfare, pension, vacation, travel time, and subsistence pay, apprenticeship or other training programs. The responsibility for compliance with these Labor Code requirements is on the prime contractor.

ARTICLE IV - And the Contractor agrees to receive and accept the following prices as full compensation for furnishing all materials and for doing all the work contemplated and embraced in this agreement; also for all loss or damage arising out of the nature of the work aforesaid or from the action of the elements, or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work until its acceptance by the City, and for all risks of every description connected with the work; also for all expenses incurred by or in consequence of the suspension or discontinuance of work and for well and faithfully completing the work, and the whole thereof, in the manner and according to the Plans and Contract Documents and the requirements of the Engineer under them, to-wit:

Perform the work necessary for relocating and compacting of embankment fill, construction of an ADA accessible concrete ramp to the south upper concourse, ADA seating, concrete plaza area, landscaping, irrigation, the design build construction of an approximate 1,600 square foot ADA accessible concession, restroom, and ticket building, plumbing, electrical and all other associated work needed and described in the project bid plans (drawings) and specifications, all in accordance with the contract documents now on file with the Director of Public Works, City Hall, 221 West Pine Street, Lodi; and the completed bidder's design documents. **Note:** The bid drawings and specifications are intended to show Owner space and facility needs, the successful bid Designers are responsible for all dimensions and final layout to meet **ALL** code requirements.

CONTRACT ITEMS

Item	Description	Quantity	Unit	Total Price
1	Mobilization, bonds, insurance (not to exceed 5% of Total Bid amount)	1	LS	\$52,400.00
2	Sheeting, shoring, bracing	1	LS	\$5,000.00
3	Site demolition including but not limited to the demolition of fencing, tanks, small structures, hard cape and trees	1	LS	\$22,200.00
4	Site improvements including but not limited to earthwork, sub grade placement and compaction, concrete hard cape, retaining walls, railing, seating, fences and gates, and landscape and irrigation	1	LS	\$673,000.00
5	Site utilities including but not limited to the installation of all storm drain, water and wastewater piping and appurtenances and trench drains	1	LS	<b>\$43,300.00</b>
6	Building improvements including but not limited to final design and permitting, building shell, roof, interior and exterior walls and finishes, heating ventilation and air conditioning, plumbing, electrical and fixtures	1	LS	\$496,500.00
7	All work in accordance with the contract documents with the exception of work included under Contract Items 1 through 6 and 8	1	LS	\$100.00
8	Installation of 2,660 SF of 6-inch thick concrete apron as shown on Sheet C3.0	1	LS	\$34,500.00
	<b>TOTAL</b>			<b>\$1,327,000.00</b>

ARTICLE V - By my signature hereunder, as Contractor, I certify that I am aware of the provisions of Section 3700 of the Labor Code, which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

ARTICLE VI - It is further expressly agreed by and between the parties hereto that, should there be any conflict between the terms of this instrument and the Bid Proposal of the Contractor, then this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said proposal conflicting herewith.

ARTICLE VII - The City is to furnish the necessary rights-of-way and easements and to establish lines and grades for the work as specified under the Special Provisions. All labor or materials not mentioned specifically as being done by the City will be supplied by the Contractor to accomplish the work as outlined in the specifications.

ARTICLE VIII - The Contractor agrees to commence work pursuant to this contract on the date stipulated in the Notice To Proceed and to diligently prosecute to completion within **180 CALENDAR DAYS**.

WHEN SIGNING THIS CONTRACT, THE CONTRACTOR AGREES THAT THE TIME OF COMPLETION FOR THIS CONTRACT IS REASONABLE AND THE CONTRACTOR AGREES TO PAY THE CITY LIQUIDATED DAMAGES AS SET FORTH IN THE SPECIAL PROVISIONS. CONTRACTOR AGREES THAT THIS AMOUNT MAY BE DEDUCTED FROM THE AMOUNT DUE THE CONTRACTOR UNDER THE CONTRACT.

IN WITNESS WHEREOF, the parties to these presents have hereunto set their hands the year and date written below.

CONTRACTOR:

CITY OF LODI

\_\_\_\_\_

By: \_\_\_\_\_  
Konrad Bartlam  
City Manager

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

Date: \_\_\_\_\_

\_\_\_\_\_  
Title

Attest

\_\_\_\_\_  
City Clerk

(CORPORATE SEAL)

Approved As To Form

\_\_\_\_\_  
D. Stephen Schwabauer  
City Attorney

**AGREEMENT FOR PROFESSIONAL SERVICES**

**ARTICLE 1  
PARTIES AND PURPOSE**

**Section 4.1 Parties**

THIS AGREEMENT is entered into on \_\_\_\_\_, 2012, by and between the CITY OF LODI, a municipal corporation (hereinafter "CITY"), and MUSCO LIGHTING (hereinafter "CONTRACTOR").

**Section 1.2 Purpose**

CITY selected the CONTRACTOR to provide the services required in accordance with attached Scope of Services, Exhibit A, attached and incorporated by this reference.

CITY wishes to enter into an agreement with CONTRACTOR for Purchase and Installation of Grape Bowl ADA Lighting (hereinafter "Project") as set forth in the Scope of Services attached here as Exhibit A. CONTRACTOR acknowledges that it is qualified to provide such services to CITY.

**ARTICLE 2  
SCOPE OF SERVICES**

**Section 2.1 Scope of Services**

CONTRACTOR, for the benefit and at the direction of CITY, shall perform the Scope of Services as set forth in Exhibit A.

**Section 2.2 Time For Commencement and Completion of Work**

CONTRACTOR shall commence work pursuant to this Agreement, upon receipt of a written notice to proceed from CITY or on the date set forth in Section 2.6, whichever occurs first, and shall perform all services diligently and complete work under this Agreement based on a mutually agreed upon timeline or as otherwise designated in the Scope of Services.

CONTRACTOR shall submit to CITY such reports, diagrams, drawings and other work products as may be designated in the Scope of Services.

CONTRACTOR shall not be responsible for delays caused by the failure of CITY staff to provide required data or review documents within the appropriate time frames. The review time by CITY and any other agencies involved in the project shall not be

counted against CONTRACTOR's contract performance period. Also, any delays due to weather, vandalism, acts of God, etc., shall not be counted. CONTRACTOR shall remain in contact with reviewing agencies and make all efforts to review and return all comments.

**Section 2.3 Meetings**

CONTRACTOR shall attend meetings as may be set forth in the Scope of Services.

**Section 2.4 Staffing**

CONTRACTOR acknowledges that CITY has relied on CONTRACTOR's capabilities and on the qualifications of CONTRACTOR's principals and staff as identified in its proposal to CITY. The Scope of Services shall be performed by CONTRACTOR, unless agreed to otherwise by CITY in writing. CITY shall be notified by CONTRACTOR of any change of Project Manager and CITY is granted the right of approval of all original, additional and replacement personnel at CITY's sole discretion and shall be notified by CONTRACTOR of any changes of CONTRACTOR's project staff prior to any change.

CONTRACTOR represents it is prepared to and can perform all services within the Scope of Services (Exhibit A) and is prepared to and can perform all services specified therein. CONTRACTOR represents that it has, or will have at the time this Agreement is executed, all licenses, permits, qualifications, insurance and approvals of whatsoever nature are legally required for CONTRACTOR to practice its profession, and that CONTRACTOR shall, at its own cost and expense, keep in effect during the life of this Agreement all such licenses, permits, qualifications, insurance and approvals, and shall indemnify, defend and hold harmless CITY against any costs associated with such licenses, permits, qualifications, insurance and approvals which may be imposed against CITY under this Agreement.

**Section 2.5 Subcontracts**

Unless prior written approval of CITY is obtained, CONTRACTOR shall not enter into any subcontract with any other party for purposes of providing any work or services covered by this Agreement.

**Section 2.6 Term**

The term of this Agreement commences on December 1, 2012 and terminates upon the completion of the Scope of Services or on June 30, 2013, whichever occurs first.

**ARTICLE 3**  
**COMPENSATION**

**Section 3.1 Compensation**

CONTRACTOR's compensation for all work under this Agreement shall conform to the provisions of the Fee Proposal, attached hereto as Exhibit B and incorporated by this reference.

CONTRACTOR shall not undertake any work beyond the scope of this Agreement unless such additional work is approved in advance and in writing by CITY.

**n 3 2 Time of Payment**

CONTRACTOR shall submit invoices for completed work on a monthly basis, or as otherwise agreed, providing, without limitation, details as to amount of hours, individual performing said work, hourly rate, and indicating to what aspect of the Scope of Services said work is attributable. CONTRACTOR's compensation for all work under this Agreement shall not exceed the amount of the Fee Proposal.

**Section 3.3 Costs**

The Fee Proposal shall include all reimbursable costs required for the performance of the Scope of Services. Payment of additional reimbursable costs considered to be over and above those inherent in the original Scope of Services shall be approved in advanced and in writing, by CITY.

**Section 3.4 Auditing**

CITY reserves the right to periodically audit all charges made by CONTRACTOR to CITY for services under this Agreement. Upon request, CONTRACTOR agrees to furnish CITY, or a designated representative, with necessary information and assistance needed to conduct such an audit.

CONTRACTOR agrees that CITY or its delegate will have the right to review, obtain and copy all records pertaining to performance of this Agreement. CONTRACTOR agrees to provide CITY or its delegate with any relevant information requested and shall permit CITY or its delegate access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this requirement. CONTRACTOR further agrees to maintain such records for a period of three (3) years after final payment under this Agreement.

**ARTICLE 4**  
**MISCELLANEOUS PROVISIONS**

**Section 4.1 Nondiscrimination**

In performing services under this Agreement, CONTRACTOR shall not discriminate in the employment of its employees or in the engagement of any sub CONTRACTOR on the basis of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, age, or any other criteria prohibited by law.

**Section 4.2 ADA Compliance**

In performing services under this Agreement, CONTRACTOR shall comply with the Americans with Disabilities Act (ADA) of 1990, and all amendments thereto, as well as all applicable regulations and guidelines issued pursuant to the ADA.

**n 4.3 Indemnification and Responsibility for Damage**

CONTRACTOR to the fullest extent permitted by law, shall indemnify and hold harmless CITY, its elected and appointed officials, directors, officers, employees and volunteers from and against any claims, damages, losses, and expenses (including reasonable attorney's fees), arising out of performance of the services to be performed under this Agreement, provided that any such claim, damage, loss, or expense is caused by the negligent acts, errors or omissions of CONTRACTOR, any subcontractor employea directly by CONTRACTOR, anyone directly or indirectly employed by any of them, or anyone for whose acts they may be liable, except those injuries or damages arising out of the active negligence of the City of Lodi or its officers or agents.

**Section 4.4 No Personal Liability**

Neither the City Council, nor any other officer or authorized assistant or agent or City employee shall be personally responsible for any liability arising under this Agreement.

**Section 4.5 Responsibility of CITY**

CITY shall not be held responsible for the care or protection of any material or parts of the work described in the Scope of Services prior to final acceptance by CITY, except as expressly provided herein.

**Section 4.6 Insurance Requirements for CONTRACTOR**

CONTRACTOR shall take out and maintain during the life of this Agreement, insurance coverage as set forth in Exhibit C attached hereto and incorporated by this reference.

**Section 4.7 Successors and Assigns**

CITY and CONTRACTOR each bind themselves, their partners, successors, assigns, and legal representatives to this Agreement without the written consent of the others. CONTRACTOR shall not assign or transfer any interest in this Agreement without the prior written consent of CITY. Consent to any such transfer shall be at the sole discretion of CITY.

**Section 4.8 Notices**

Any notice required to be given by the terms of this Agreement shall be in writing signed by an authorized representative of the sender and shall be deemed to have been given when the same is personally served or upon receipt by express or overnight delivery, postage prepaid, or three (3) days from the time of mailing if sent by first class or certified mail, postage prepaid, addressed to the respective parties as follows:

To CITY:                      City of Lodi  
   221 West Pine Street  
   P.O. Box 3006  
   Lodi, CA 95241-1910  
   Attn: F. Wally Sandelin, Public Works Director

To CONTRACTOR: Musco Lighting  
   P.O. Box 808  
   Oskaloosa, IA 52577

**Section 4.9 Cooperation of CITY**

CITY shall cooperate fully and in a timely manner in providing relevant information it has at its disposal relevant to the Scope of Services.

**Section 4.10 CONTRACTOR is Not an Employee of CITY**

CONTRACTOR agrees that in undertaking the duties to be performed under this Agreement, it shall act as an independent contractor for and on behalf of CITY and not an employee of CITY. CITY shall not direct the work and means for accomplishment of the services and work to be performed hereunder. CITY, however, retains the right to require that work performed by CONTRACTOR meet specific standards without regard to the manner and means of accomplishment thereof.

**Section 4.11 Termination**

CITY may terminate this Agreement, with or without cause, by giving CONTRACTOR at least ten (10) days written notice. Where phases are anticipated within the Scope of Services, at which an intermediate decision is required concerning whether to proceed further, CITY may terminate at the conclusion of any such phase.

Upon termination, CONTRACTOR shall be entitled to payment as set forth in the attached Exhibit B to the extent that the work has been performed. Upon termination, CONTRACTOR shall immediately suspend all work on the Project and deliver any documents or work in progress to CITY. However, CITY shall assume no liability for costs, expenses or lost profits resulting from services not completed or for contracts entered into by CONTRACTOR with third parties in reliance upon this Agreement.

**Section 4.12 Confidentiality**

CONTRACTOR agrees to maintain confidentiality of all work and work products produced under this Agreement, except to the extent otherwise required by law or permitted in writing by CITY. CITY agrees to maintain confidentiality of any documents owned by CONTRACTOR and clearly marked by CONTRACTOR as “Confidential” or “Proprietary”, except to the extent otherwise required by law or permitted in writing by CONTRACTOR. CONTRACTOR acknowledges that CITY is subject to the California Public Records Act.

**Section 4.13 Applicable Law, Jurisdiction, Severability, and Attorney’s Fees**

This Agreement shall be governed by the laws of the State of California. Jurisdiction of litigation arising from this Agreement shall be venued with the San Joaquin County Superior Court. If any part of this Agreement is found to conflict with applicable laws, such part shall be inoperative, null, and void insofar as it is in conflict with said laws, but the remainder of this Agreement shall be in force and effect. In the event any dispute between the parties arises under or regarding this Agreement, the prevailing party in any litigation of the dispute shall be entitled to reasonable attorney’s fees from the party who does not prevail as determined by the San Joaquin County Superior Court.

**Section 4.14 City Business License Requirement**

CONTRACTOR acknowledges that Lodi Municipal Code Section 3.01.020 requires CONTRACTOR to have a city business license and CONTRACTOR agrees to secure such license and pay the appropriate fees prior to performing any work hereunder.

**Section 4.15 Captions**

The captions of the sections and subsections of this Agreement are for convenience only and shall not be deemed to be relevant in resolving any question or interpretation or intent hereunder.

**Section 4.16 Integration and Modification**

This Agreement represents the entire understanding of CITY and CONTRACTOR as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may not be modified or altered except in writing, signed by both parties.

**Section 4.17 Contract Terms Prevail**

All exhibits and this Agreement are intended to be construed as a single document. Should any inconsistency occur between the specific terms of this Agreement and the attached exhibits, the terms of this Agreement shall prevail.

**Section 4.18 Severability**

The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

**Section 4.19 Ownership of Documents**

All documents, photographs, reports, analyses, audits, computer media, or other material documents or data, and working papers, whether or not in final form, which have been obtained or prepared under this Agreement, shall be deemed the property of CITY. Upon CITY's request, CONTRACTOR shall allow CITY to inspect all such documents during CONTRACTOR's regular business hours. Upon termination or completion of services under this Agreement, all information collected, work product and documents shall be delivered by CONTRACTOR to CITY within ten (10) calendar days.

CITY agrees to indemnify, defend and hold CONTRACTOR harmless from any liability resulting from CITY's use of such documents for any purpose other than the purpose for which they were intended.

**Section 4.20 Authority**

The undersigned hereby represent and warrant that they are authorized by the parties to execute this Agreement.

**Section 1 Federal Transit Funding Conditions**

If the box at left is checked, the Federal Transit Funding conditions attached as Exhibit \_\_\_\_\_ apply to this contract. In the event of a conflict between the terms of this contract or any of its other exhibits, and the Federal Transit Funding Conditions, the Federal Transit Funding Conditions will control.

IN WITNESS WHEREOF, CITY and CONTRACTOR have executed this Agreement as of the date first above written.

CITY OF LODI, a municipal corporation

ATTEST:

\_\_\_\_\_  
RANDI JOHL  
City Clerk

\_\_\_\_\_  
KONRADT BARTLAM, City Manager

APPROVED AS TO FORM:  
D. STEPHEN SCHWABAUER, City Attorney  
JANICE D. MAGDICH, Deputy City Attorney

CONTRACTOR: MUSCO LIGHTING

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


By: \_\_\_\_\_  
Name:  
Title:

- Attachments:**  
**Exhibit A – Scope of Services**  
**Exhibit B – Fee Proposal**  
**Exhibit C – insurance Requirements**

**Funding Source:** 1212811  
**(Business Unit & Account No.)**



**Grape Bowl ADA Lighting  
Lodi, California  
Date: September 18, 2012  
To: Steve Virrey**

**Quotation Price**

Musco's Light Structure Green™ lighting system as described below to the job site. Application is to add two 1000 watt fixtures to poles F1, F3, F4 and F6, using the existing electrical wiring, and installing one 125 amp breaker in the existing electrical panel. The lighting is being provided for the pathway at Grape Bowl facility as per lighting design 156005R2 completed on September 10, 2012.

Total Price including tax:	\$42,693.00
Equipment cost FOB:	\$17,915.00
Install cost:	\$23,389.59
Tax:	\$1,388.41

**Equipment Description**

SportsCluster Green™ System delivered to your site

- Factory aimed and assembled pole top luminaire assemblies
- (8) 1000-watt metal halide fixtures
- UL Listed remote electrical component enclosures
- Mounting hardware for the pole top units and electrical component enclosures
- Pole length wire harness
- Disconnects

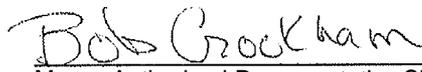
Also includes:

- Energy savings of more than 50% over standard lighting system
- 10-Year warranty including ten years parts, two years labor. Lamps are warranted for two years, with the first year including lamps and labor, and the second year lamps only

Delivery to the **job** site from the time **of** order, submittal approval, and **confirmation** of order details including voltage and phase, pole locations **is** approximately **30-45** days. Due to the built-in custom light control per luminaire, pole locations need to be confirmed prior **to** production. Changes to pole locations after the product **is** sent to production could result in additional charges.

Thank you for considering Musco for your sports-lighting needs. Please contact me with any questions.

Bob Crookham  
Sales Representative  
Musco Sports Lighting, LLC  
Phone: 530/672-9500  
E-mail: bob.crookham@musco.com  
Fax: 530/672-9471

  
Musco Authorized Representative Signature



**Turnkey Scope of Work**  
**Grape Bowl ADA Lighting**  
**Lodi, CA Project #156005**

**Owner Responsibilities:**

1. Total access to the site and tower locations for construction.
2. Removal of any trees, limbs, shrubs, etc. for total access to tower locations as necessary.
3. Removal, replacement, and repair of all fencing necessary for construction.

**Musco Responsibilities:**

1. Provide required fixtures, enclosures, harnesses, mounting materials and associated designs as required.
2. Provide Project Management assistance as needed.

**Musco Subcontractor Responsibilities:**

1. Provide equipment and materials to off load equipment at jobsite per scheduled delivery.
2. Provide storage for material as necessary.
3. Provide adequate trash container for cardboard waste and packing debris.
4. Obtain required permits, owner to pay costs of permits, if any.
5. Provide materials and equipment to upgrade existing electrical service panels as required. This would include adding breakers for security fixture circuits.
6. Provide materials and equipment to assemble and install (8) Sportscluster Green™ fixtures(2 per corner pole) and terminate all necessary wiring in supplied cross-arms. Musco to supply mounting hardware and brackets as necessary to attach to existing towers.
7. Verify aiming points have been located and are correct before sighting in lighting cross-arms.
8. Provide equipment and materials to upgrade the Controls and Monitoring Cabinet and terminate all necessary wiring as necessary. Subcontractor to commission Control Link upon completion.
9. Provide startup and aiming as required to provide complete and operating sports and security lighting system.



Insurance Requirements for Contractor The Contractor shall take out and maintain during the life of this contract, insurance coverage as listed below. These insurance policies shall protect the Contractor and any subcontractor performing work covered by this contract from claims for damages for personal injury, including accidental death, as well as from claims for property damages, which may arise from Contractor's operations under this contract, whether such operations be by Contractor or by any subcontractor or by anyone directly or indirectly employed by either of them, and the amount of such insurance shall be as follows:

- |   |  |
|---|--|
| 1. <u>COMPREHENSIVE GENERAL LIABILITY</u><br>\$3,000,000 Ea. Occurrence | 2. <u>COMPREHENSIVE AUTOMOBILE LIABILITY</u><br>\$1,000,000 Bodily Injury - Ea. Person<br>\$1,000,000 Bodily Injury - Ea. Occurrence<br>\$1,000,000 Property Damage - Ea. Occurrence |
|---|--|

NOTE: Contractor agrees and stipulates that any insurance coverage provided to the City of Lodi shall provide for a claims period following termination of coverage which is at least consistent with the claims period or statutes of limitations found in the California Tort Claims Act (California Government Code Section 810 et seq.).

NOTE: (1) The street address of the CITY OF LODI must be shown along with (a) and (b) above: 221 West Pine Street, Lodi, California, 95241-1910; (2) The insurance certificate must state, on its face or as an endorsement, a description of the project that it is insuring.

A copy of the certificate of insurance with the following endorsements shall be furnished to the City:

- (a) Additional Named Insured Endorsement  
Such insurance as is afforded by this policy shall also apply to the City of Lodi, its elected and appointed Boards, Commissions, Officers, Agents, Employees, and Volunteers as additional named insureds.  
  
(This endorsement shall be on a form furnished to the City and shall be included with Contractor's policies.)
- (b) Primary insurance Endorsement  
Such insurance as is afforded by the endorsement for the Additional Insureds shall apply as primary insurance. Any other insurance maintained by the City of Lodi or its officers and employees shall be excess only and not contributing with the insurance afforded by this endorsement.
- (c) Completed Operations Endorsement  
A certificate of insurance with a Completed Operations Endorsement, CG 20 37 07 04, will be provided to the City of Lodi during construction and for three years after acceptance of project.
- (d) Severability of Interest Clause  
The term "insured" is used severally and not collectively, but the inclusion herein of more than one insured shall not operate to increase the limit of the company's liability.
- (e) Notice of Cancellation or Change in Coverage Endorsement  
This policy may not be canceled nor the coverage reduced by the company without 30 days' prior written notice of such cancellation or reduction in coverage to the Risk Manager, City of Lodi, 221 W. Pine St., Lodi, CA 95240.

Compensation Insurance The Contractor shall take out and maintain during the life of this contract, Worker's Compensation Insurance for all of Contractor's employees employed at the site of the project and, if any work is sublet, Contractor shall require the subcontractor similarly to provide Worker's Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the Contractor. In case any class of employees engaged in hazardous work under this contract at the site of the project is not protected under the Worker's Compensation Statute, the Contractor shall provide and shall cause each subcontractor to provide insurance for the protection of said employees. This policy may not be canceled nor the coverage reduced by the company without 30 days' prior written notice of such cancellation or reduction in coverage to the Risk Manager, City of Lodi, 221 W. Pine St., Lodi, CA 95240. A Waiver of Subrogation against the City of Lodi is required.

NOTE: No contract agreement will be signed nor will any work begin on a project until the proper insurance certificate is received by the City.

1. AA# \_\_\_\_\_  
 2. JV# \_\_\_\_\_

**CITY OF LODI**  
**APPROPRIATION ADJUSTMENT REQUEST**

TO: Internal Services Dept. - Budget Division  
 3. FROM: Rebecca Areida-Yadav 5. DATE: 10/09/2012  
 4. DEPARTMENT/DIVISION: Public Works

**6. REQUEST ADJUSTMENT OF APPROPRIATION AS LISTED BELOW**

	FUND #	BUS. UNIT #	ACCOUNT #	ACCOUNT TITLE	AMOUNT
A.  SOURCE OF  FINANCING	1212	12121	6153	Donations	\$ 213,000.00
	1212	-	4210	Transfer In	\$ 675,000.00
	1212	-	3205	Fund Balance	\$ 339,316.00
	171	-	3205	Fund Balance	\$ 675,000.00
	459	4591	5564	Comm Development Block Grants	\$ 136,716.00
B.  USE OF  FINANCING	1212	1212811	1825.2400	Grape Bowl	5 1,227,316.00
	171		4220	Transfer Out	5 675,000.00
	459	4591103	7720	Grape Bowl	5 136,716.00

**7. REQUEST IS MADE TO FUND THE FOLLOWING PROJECT NOT INCLUDED IN THE CURRENT BUDGET**

Please provide a description of the project, the total cost of the project, as well as justification for the requested adjustment. If you need more space, use an additional sheet and attach to this form.

Contracts for phase 3 Grape Bowl improvement project and the purchase and installation of ADA lighting

If Council has authorized the appropriation adjustment, complete the following:

Meeting Date: \_\_\_\_\_ Res No: \_\_\_\_\_ Attach copy of resolution to this form.

Department Head Signature: AWAAY SANDER

**8. APPROVAL SIGNATURES**

\_\_\_\_\_  
 Deputy City Manager/Internal Services Manager Date

Submit completed form to the Budget Division with any required documentation.  
 Final approval will be provided in electronic copy format.

**GRAPE BOWL PHASE 3 IMPROVEMENTS**  
**221 Lawrence Street**

**CONTRACT**

CITY OF LODI, CALIFORNIA

THIS CONTRACT made by and between the CITY OF LODI, State of California, herein referred to as the "City," and DIEDE CONSTRUCTION, INC., herein referred to as the "Contractor."

WITNESSETH:

That the parties hereto have mutually covenanted and agreed, and by these presents do covenant and agree with each other, as follows:

The complete Contract consists of the following documents which are incorporated herein by this reference, to-wit:

- |  |                                     |
|--|-------------------------------------|
| Notice Inviting Bids                             | Current Edition,                    |
| Information to Bidders                           | Standard Specifications,            |
| General Provisions                               | State of California,                |
| Special Provisions                               | Business and Transportation Agency, |
| <b><u>Federal Labor Standards Provisions</u></b> | Department of Transportation        |
| <b><u>Federal Wage Decision</u></b>              |                                     |
| Bid Proposal                                     |                                     |
| Contract   |                                     |
| Contract Bonds                                   |                                     |
| Plans  |                                     |

All of the above documents, sometimes hereinafter referred to as the "Contract Documents," are intended to cooperate so that any work called for in one and not mentioned in the other is to be executed the same as if mentioned in all said documents.

**ARTICLE I** - That for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the City and under the condition expressed in the two bonds bearing even date with these presents and hereunto annexed, the Contractor agrees with the City, at Contractor's cost and expense, to do all the work and furnish all the materials except such as are mentioned in the specifications to be furnished by the City, necessary to construct and complete in a good workmanlike and substantial manner and to the satisfaction of the City the proposed improvements as shown and described in the Contract Documents which are hereby made a part of the Contract.

**ARTICLE II** - The City hereby promises and agrees with the Contractor to employ, and does hereby employ, the Contractor to provide all materials and services not supplied by the City and to do the work according to the terms and conditions for the price herein, and hereby contracts to pay the same as set forth in the General Provisions, in the manner and upon the conditions above set forth; and the said parties for themselves, their heirs, executors, administrators, successors and assigns, do hereby agree to the full performance of the covenants herein contained.

**ARTICLE III** - The Contractor agrees to conform to the provisions of Chapter 1, Part 7, Division 2 of the Labor Code. The Contractor and any Subcontractor will pay the general prevailing wage rate and other employer payments for health and welfare, pension, vacation, travel time,

RESOLUTION NO. 2012-167

A RESOLUTION OF THE LODI CITY COUNCIL AWARDING AND  
AUTHORIZING THE CITY MANAGER TO EXECUTE CONTRACT FOR  
THE PHASE 3 GRAPE BOWL IMPROVEMENT PROJECT AND  
PROFESSIONAL SERVICES AGREEMENT FOR PURCHASE AND  
INSTALLATION OF GRAPE BOWL AMERICANS WITH DISABILITIES  
ACT LIGHTING AND TO APPROVE AN INTER-FUND LOAN  
AGREEMENT AND FURTHER APPROPRIATING FUNDS

---

WHEREAS, in answer to notice duly published in accordance with law and the order of this City Council, sealed bids were received and publicly opened on September 26, 2012, at 11:00 a.m., for the Phase 3 Grape Bowl Improvement Project, described in the plans and specifications therefore approved by the City Council on August 1, 2012; and

WHEREAS, said bids have been checked and tabulated and a report thereof filed with the City Manager as follows:

<b>Bidder</b>	<b>Base Bid</b>	<b>Base Bid + Alt. Bid A</b>
Diede Construction, Inc.	\$1,292,500	\$1,327,000
John F. Otto Construction	\$1,367,996	\$1,385,785
Seward L. Scheder Construction	\$1,490,884	\$1,514,146
A.M. Stephens Construction	\$1,498,800	\$1,519,800
MCI Engineering	\$1,591,000	\$1,626,000

WHEREAS, staff recommends awarding the contract for the Phase 3 Grape Bowl Improvement Project, including Alternate Bid Item A, to the low bidder, Diede Construction, Inc., of Woodbridge, California, in the amount of \$1,327,000; and

WHEREAS, additional light fixtures are required to meet Americans with Disabilities Act (ADA) minimum-lighting standards for the new improvements and staff recommends procuring these separately from Musco Lighting, of Oskaloosa, Iowa, the vendor that installed the existing lights by sole source, in the amount of \$42,693; and

WHEREAS, per Lodi Municipal Code Section 3.20.070, Bidding, the bidding process may be dispensed when the City Council determines that the purchase or method of purchase is in the best interests of the City; and

WHEREAS, an inter-fund loan to Parks Capital from Wastewater Capital in the amount of \$675,000 is needed to fully fund the project and requires an inter-fund loan agreement be established. The interest charge will be set at the Local Agency Investment Fund rate, and the term of the loan will be 63 months. Funds to repay the inter-fund loan will come from the remaining Waste Management Donation of \$675,000.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby award the contract for the Phase 3 Grape Bowl Improvement Project, including Alternate Bid Item A, to the low bidder, Diede Construction, Inc., of Woodbridge, California, in the amount of \$1,327,000, and the Professional Services Agreement for the non-competitive purchase and installation of Grape Bowl ADA lighting with Musco Lighting, of Oskaloosa, Iowa, in the amount of \$42,693; and

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to approve an Inter-Fund Loan Agreement to Parks Capital from Wastewater Capital in the amount of \$675,000; and

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute the contract and agreements; and

BE IT FURTHER RESOLVED that funds in the amount of \$1,364,032 be appropriated for this project as follows:

Friends of the Grape Bowl Donations	\$ 178,000
Waste Management Donation	\$ 325,000
Metro PCS Donation	\$ 35,000
CDBG Funds	\$ 136,716
Parks Capital Fund	\$ 14,316
Wastewater Capital Fund	\$ 675,000
Total Appropriation	\$1,364,032

Dated: October 17, 2012

=====

I hereby certify that Resolution No. 2012-167 was passed and adopted by the City Council of the City of Lodi in a regular meeting held October 17, 2012, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Johnson, Katzakian, Nakanishi, and Mayor Mounce

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None

  
RANDI JOHL  
City Clerk