



**CITY OF LODI  
COUNCIL COMMUNICATION**

**AGENDA TITLE:** Adopt Resolution Authorizing the Non-Competitive Purchase of Musco Sports Lighting Components and Installation to Musco Lighting, Oskaloosa, Iowa, for the Kofu Park Sports Lighting Upgrade and Appropriate Funds (\$33,577.04)

**MEETING DATE:** May 15, 2013

**PREPARED BY:** Parks, Recreation and Cultural Services Director

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**RECOMMENDED ACTION:** Adopt resolution authorizing the non-competitive purchase of Musco Sports Lighting components and installation to Musco Lighting, Oskaloosa, Iowa, for the Kofu Park Sports Lighting Upgrade and appropriate funds in the amount of \$33,577.04.

**BACKGROUND INFORMATION:** New lighting components offered through Musco Lighting provide significant energy savings over the existing Musco components at Kofu Park, which were installed in 1991. This project includes installing new lamps in 44 Musco 1,500-watt fixtures, clean lenses and reflectors, dispose of old lamps, replace 10 ballast enclosures on the existing steel light poles, installing a remotely operated Control Link Monitoring System, hardware and other miscellaneous items shown on the attached Budget Estimate.

The new lighting will save 64,152 kilowatt hours per year, reducing energy costs by approximately \$6,700 per year for a payback in five years. The new monitoring system will reduce staff time needed to manually turn the lights on and off.

Lodi Municipal Code 3.20.070 allows the dispensing of bids when City Council determines it is the best method of purchase. Musco is the only lighting company that the city has worked with. The equipment proposed for purchase will upgrade existing Musco equipment. The City also has Musco products at the Grape Bowl, Softball Complex, Chapman Field and Hale Park basketball courts.

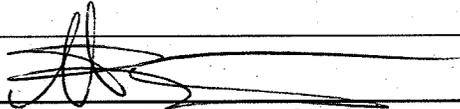
The control-link operating system allows staff to program lighting operations remotely, eliminating the need for a staff person to turn lights on and off in the field. It is identical to that used for the Grape Bowl. In addition, the light system is monitored by Musco at its headquarters in Iowa, and Musco alerts staff in the event of a system malfunction. Because of these factors, staff recommends the non-competitive purchase of the Musco Sports Lighting components and installation.

**FISCAL IMPACT:** Energy savings to the City of approximately \$6,700 per year, and PRCS staff savings on manual operation of park lighting.

**FUNDING AVAILABLE:** Public Benefit Funds (164605) will provide the necessary funding.

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APPROVED:

  
Konradt Bartlam, City Manager

Requested Appropriation: Parks Capital (1212044) \$33,577.04.



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Jordan Ayers  
Deputy City Manager/Internal Service Director



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Jeff Hood  
Parks, Recreation & Cultural Services Director



Kofu Park Baseball
City of Lodi
Lodi, CA
Date: May 7, 2013
Attention: Steve Virrey

Quotation Price

Table with 2 columns: Description and Price. Rows include: The fee for services rendered including relamp, ballast enclosure change and Control-Link (\$33,577.04\*\*), Material subject to tax (\$24,438.00), Tax 8% (\$1,955.04)

\*\*This quote does include prevailing wage rates.

Pricing Notice:

The quoted price above is good only if the relamp, ballast enclosure change and Control-Link retrofit are completed at the same time. If these are requested to be completed at different times, the cost will increase.

Scope of Service Relamp and ballast enclosure change: \$22,872.00

Musco proposes the following service:

- Re-lamp 44 Musco 1500 watt LV 8 fixtures (Replace lamps, Clean lenses and reflectors, Old lamp disposal)
Replace all (10) ballast enclosures on the baseball field (the box mounted 10' to 12' above grade)
Disposal of the old ballast enclosures

In connection with the Services, Musco will provide basic materials consisting of (44) Musco 1500 watt Painted Z lamps and (10) Musco 1500 watt 240 volt ballast enclosures. If additional time or materials are needed to complete the Project, Musco will obtain Customer's consent before proceeding.

Notes

- Reasonable access to all poles with construction-sized lift if required.
Ground protection (plywood) and assistance to move, if needed, provided by owner.

Control-Link Retrofit Equipment & Installation with 10 years of Service: \$8,750.00

Equipment

- (1) Remote Equipment Controllers (REC's)
(3) Remote Off/On Auto Switches
(1) Remote Switch Box
Zone 1: Baseball Zone 2: Soccer
Zone 3: Spare Zone 4:
Zone 5: Zone 6:
Zone 7:
10 year parts and labor warranty on all equipment
All freight costs

Equipment Installation

- Turnkey installation of all components by Musco Technicians
Activation and testing of systems to ensure all units are fully functional and operational

10 Years Control Link Central Service (CLC)

- 24/7 toll free access to CLC customer scheduling operators
Access to Musco Control Link Scheduling Website
REC operations and Website Training for your scheduling staff

Price assumes contactors exist. If contactors are required, they can be purchased at an additional cost to be installed by others.

**Payment Terms**

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Payment terms net 30 days from delivery. **Late payment will be subject to service charges of 1 ½% per month (18% APR).** Any additional materials needed, will be charged at an additional price. In addition, City of Lodi shall pay and be responsible for when due all local applicable sales, use, franchise, gross receipts, or similar taxes relating to this Agreement. If any payment is not made when due, Customer will pay a delinquent charge of 1-1/2% for each month, or a portion of month, that a past due balance remains unpaid. Customer agrees to pay all cost (including reasonable attorney's fees and court costs) associated with collecting any delinquent amounts due. Freight Charges have been included in the above prices.

**Licenses and Permits**

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MUSCO, a non-union organization, requires City of Lodi to arrange and secure all licenses, permits and/or applicable labor contracts with local authorities. MUSCO shall not be held responsible for local union labor and any permits, if required.

**Nonliability**

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Before Musco enters the Property to set up its equipment under this Agreement, Customer must notify Musco of any landscaping or surface areas that are to be avoided by Musco in setting up its equipment. Absent Musco's negligence or willful misconduct, Musco is not, at any time or to any extent, liable, responsible or in any way accountable for any loss, injury, death or damage to persons or property, from any cause that at any time may be suffered or sustained by Customer, or by any person on or about the Property arising out of the entry or activities on the Property by Musco, or any person or persons permitted on the Property by Musco.

Prices are good for acceptance and delivery for 90 days only, unless such time is extended in writing. If you have any questions regarding the quotation, please call me at 800-825-6020 .

Sincerely,



Troy Shilling  
Lighting Services Sales Rep  
Musco Sports Lighting  
800-825-6020  
888-397-8736 fax  
Troy.shilling@musco.com

## **AGREEMENT FOR PROFESSIONAL SERVICES**

### **ARTICLE 1 PARTIES AND PURPOSE**

#### **Section 1.1 Parties**

THIS AGREEMENT is entered into on \_\_\_\_\_, 2013, by and between the CITY OF LODI, a municipal corporation (hereinafter "CITY"), and MUSCO CORPORATION (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 Kofu Park Baseball 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 June 10, 2013 and terminates upon the completion of the Scope of Services or on July 31, 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 A 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.

### **Section 3.2 Method 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.

**Section 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 employed 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 B 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: Steve Dutra, Parks Superintendent

To CONTRACTOR: MUSCO Corporation  
   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 A 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 4.21 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

MUSCO CORPORATION

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


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

**Attachments:**  
Exhibit A – Scope of Services & Fee Proposal  
Exhibit B – Insurance Requirements

Funding Source: \_\_\_\_\_  
(Business Unit & Account No.)

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

**CITY OF LODI  
 APPROPRIATION ADJUSTMENT REQUEST**

TO: Internal Services Dept. - Budget Division  
 3. FROM: Jeff Hood 5. DATE: 5/7/13  
 4. DEPARTMENT/DIVISION: PRCS/Parks

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

	FUND #	BUS. UNIT #	ACCOUNT #	ACCOUNT TITLE	AMOUNT
A. SOURCE OF FINANCING	164	164605	8098	Public Benefits Fund	\$33,577.04
	1212		4210	Parks Capital	\$33,577.04
B. USE OF FINANCING	164		4220	Operating Transfers Out	\$33,577.04
	1212	1212440	1831.2400	Kofu Park Sports Lighting	\$33,577.04

**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.

**PRCS proposes to use Public Benefits funds to purchase energy efficient lighting at Kofu Park. The new lighting components will reduce energy costs by approximately \$6,700 per year and reduce staff time needed to manually operate the lights.**

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

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

Department Head Signature:  \_\_\_\_\_

**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.

RESOLUTION NO. 2013-86

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING THE NON-COMPETITIVE PURCHASE OF MUSCO SPORTS LIGHTING COMPONENTS FROM MUSCO LIGHTING, OF OSKALOOSA, IOWA, FOR THE KOFU PARK SPORTS LIGHTING UPGRADE; AUTHORIZING THE CITY MANAGER TO EXECUTE PROFESSIONAL SERVICES AGREEMENT, AND FURTHER APPROPRIATING PROJECT FUNDING

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WHEREAS, new lighting components offered through Musco Lighting provide significant energy savings over the existing Musco components at Kofu Park; and

WHEREAS, the Kofu Park Project includes installing new lamps in 44 Musco 1,500-watt fixtures, cleaning lenses and reflectors, disposing of old lamps, replacing 10 ballast enclosures on the existing steel light poles, and installing a remotely operated Control Link Monitoring System, hardware, and other miscellaneous items; and

WHEREAS, the new lighting will save 64,152 kilowatt hours per year, reducing energy costs by approximately \$6,700 per year for a payback of less than five years, and the new monitoring system will reduce staff time needed to manually turn the lights on and off; and

WHEREAS, Lodi Municipal Code Section 3.20.070 allows the dispensing of bids when City Council determines it is the best method of purchase; and

WHEREAS, staff recommends the non-competitive purchase of the Musco sports lighting components and installation.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the non-competitive purchase of Musco sports lighting components from Musco Lighting, of Oskaloosa, Iowa, for the Kofu Park sports lighting upgrade; and

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute a Professional Services Agreement on behalf of the City; and

BE IT FURTHER RESOLVED that Electric Utility Public Benefit funds in the amount of \$33,577.04 be transferred to the Parks Capital account and appropriated for this project.

Dated: May 15, 2013

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I hereby certify that Resolution No. 2013-86 was passed and adopted by the City Council of the City of Lodi in a regular meeting held May 15, 2013, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Katzakian, Mounce, and Mayor Nakanishi  
NOES: COUNCIL MEMBERS – None  
ABSENT: COUNCIL MEMBERS – Johnson  
ABSTAIN: COUNCIL MEMBERS – None

  
RANDI JOHL  
City Clerk