

For the Meeting of: 10/24/2024
Agenda Item No.: E-1

CALWA RECREATION & PARK DISTRICT REPORT TO THE BOARD

TO: Board of Directors

FROM: District Administrator, Tim Chapa

SUBJECT: Mini-Pitch Site Preparation Contract Award

RECOMMENDATION:

District Administrator recommends that the Board:

1. Award the contract for the project to Tosted Asphalt, P.O. Box 27014, Fresno, CA 93729, in the amount of \$132,250, as lowest responsive and responsible bidder; and
2. Approve a construction contingency for change orders in the amount of \$13,250 (10%) for this project; and
3. Authorize the District Administrator to sign contract documents on behalf of the District.

SUMMARY:

This project will install the concrete pad for the mini-pitch field, including access for electrical lighting, a concrete ADA walkway, and provide for all necessary permits and business licenses as required.

REASON FOR RECOMMENDATION:

The District has been working towards implementing this project for several years after having received grant funding through the State Parks OGALS program and the USSF Soccer Grant. The project will provide the site preparation necessary for the Dual Mini-Pitch Futsal Field. It includes a new concrete court pad upon which the mini-pitch will be installed, including providing the electrical access for the field's lighting system, concrete ADA walkway access and all permits/licenses as may be necessary. Upon curing of the concrete and completion of the site preparation, the mini-pitch will be installed.

During the project bidding phase, the Notice Inviting Bids was circulated in the Fresno and Tulare County local builders' exchanges. The Notice was also posted on the District website. Additionally, other reputable contractors experienced with this type of construction were made aware of the project and invited to bid on the project as well.

On October 8, 2024 the District Administrator received and opened three bid proposals for this project:

| Contractor | Bid |
|----------------------------|--------------|
| 1. Toster Asphalt, Inc. | \$132,250.00 |
| 2. JT2 dba Todd Companies | \$278,925.00 |
| 3. American Paving Company | \$329,000.00 |
| Staff's Estimate | \$122,000.00 |

The bids were analyzed and all were found to be responsive and responsible. As such, the District Administrator recommends that the award be made to the low bidder, Toster Asphalt, Inc., who submitted a complete and responsive bid. Award of the contract will allow the District to proceed with the project.

FISCAL IMPACT:

Sufficient funds are budgeted for the project The project is being funded by State Parks OGAL funds of \$179,200, a \$20,000 USSF Soccer Grant and by local funds of \$252,000.

Attachments:

- Resolution
- Contract

RESOLUTION NO. 24-10

RESOLUTION OF THE BOARD OF DIRECTORS OF THE CALWA RECREATION AND PARK DISTRICT AWARDED CONTRACT FOR THE SITE PREPARATION CALWA MINI-PITCH PROJECT TO TOSTED ASPHALT, INC.

WHEREAS, the Invitation to Bid for the Site-Preparation Project was posted on the District website and was sent electronically and to the Fresno County Builder’s Exchange and the Tulare County Builder’s Exchange; and

WHEREAS, the Project consists of mobilization/demobilization, concrete or asphalt court pad, access to electrical lighting, concrete ADA walkway and permits and licenses as necessary; and

WHEREAS, the following bids for the Project were publicly opened and read aloud at the Calwa Recreation and Park District Office on October 8, 2024:

| Contractor | Base Bid |
|----------------------|-----------------|
| Tosted Asphalt, Inc. | \$132,250.00 |
| JT2 dba Todd Co. | \$278,925.00 |
| American Paving Co. | \$329,000.00 |

WHEREAS, the District Administrator’s Estimate was \$122,000.

WHEREAS, the bid from Tosted Asphalt, Inc. was the lowest responsive and responsible bid.

NOW, THEREFORE, the Board of Directors of Calwa Recreation and Park resolves as follows:

1. The foregoing recitals are true and correct and incorporated by reference.
2. Upon the recommendation of the District Administrator the Board awards the Site Preparation Mini-Pitch Project Contract to Tosted Asphalt, Inc. in the amount of \$132,250.00 (One Hundred Thirty Two Thousand Two Hundred Fifty Dollars and No Cents.)

3. The District Administrator is authorized to sign the contract on behalf of the District.

4. This resolution shall become effective immediately upon its adoption.

CERTIFICATION

Adoption of the foregoing Resolution No. 2024-10 was moved by Director _____ and seconded by Director _____ and adopted at a Regular Meeting held on October 24, 2024, by the following vote:

AYES: _____

NOES: _____

ABSTENTIONS: _____

ABSENCES: _____

Secretary of the Board of Directors

CONTRACT

THIS CONTRACT, is made by and between Tosted Asphalt, Inc., hereinafter called the Contractor, and the Calwa Park District, hereinafter called the Owner.

WITNESSETH:

The Contractor and the Owner, for the consideration hereinafter stated, agree as follows:

1. SCOPE OF WORK.

The Contractor agrees to furnish all labor and materials, including tools, implements, and appliances required, and to perform all the work in a good and workmanlike manner, free from any and all liens and claims of mechanics, teamsters, draymen and laborers required for the

SITE PREPARATION – CALWA MINI-PITCH PROJECT

as shown on the plans prepared by the Calwa Park District in strict compliance with the Plans, Drawings and Specifications therefore prepared by the Owner and other Contract Documents relating thereto.

2. CONTRACT DOCUMENTS.

The term Contract includes all “Contract Documents” which include the following:

- A. Advertisement (Notice Inviting Bids)
- B. Wage Scale (Prevailing Wages)
- C. Plans and Drawings
- D. Addenda and Bulletins
- E. Contractors Bid Proposal hereto attached
- F. This Contract

3. COMPENSATION.

The Owner agrees to pay the Contractor for the performance of the Contract the sum of One Hundred Thirty Two Thousand Two Hundred Fifty Dollars and No Cents (\$132,250.00).

It is understood that said price is based upon the estimated quantities of materials to be used as set forth in the Proposal; and upon completion of the project, the final contract price shall be revised, if necessary, to reflect the true quantities used at the stated unit price thereof as contained in the Contractor’s Proposal hereto attached.

4. SUSPENSION OF THE WORK.

- A. General: The Work may be suspended in whole or in part when determined by the District Administrator that the suspension is necessary in the interest of the Owner. The Contractor shall comply immediately with any written order of the District Administrator. Such suspension shall be without liability to the Contractor on the part of the Owner except as otherwise provided in subsection 7C.
- B. Archaeological and Paleontological Discoveries: If discovery is made of items of archaeological or paleontological interest, the Contractor shall immediately cease excavation in the area of discovery and shall not continue until ordered by the District Administrator.

Discoveries which may be encountered may include, but not be limited to, dwelling sites, stone implements or other artifacts, animal bones, human bones, and fossils. The Contractor shall be entitled to an extension of time and compensation in accordance with Section 7.

5. TERMINATION OF THE CONTRACT FOR DEFAULT.

- A. General: If, prior to the acceptance of the Work, the Contractor:
- (1) Becomes insolvent, assigns its assets for the benefit of its creditors, is unable become due, or is otherwise financially unable to complete the Work;
 - (2) Abandons the Work by failing to report to the Work site and diligently prosecute the Work to completion;
 - (3) Disregards written instructions from the District Administrator or materially violates provisions of the Contract Documents;
 - (4) Fails to prosecute the Work according to the schedule approved by the District Administrator;
 - (5) Disregards laws or regulations of any public body having jurisdiction; or
 - (6) Commits continuous or repeated violations of regulatory or statutory safety requirements, then the Owner will consider the Contractor in default of the Contract.
- B. Notices: Notices and other written communications regarding default between the Contractor, the Owner, and the Surety shall be transmitted as follows:
- (1) Personal delivery with proof of delivery which may be made by declaration under penalty of perjury by any person over the age of 18 years. The proof of delivery shall show that delivery was performed in accordance with these provisions. Service shall be effective on the date of delivery. Notices given to the Contractor by personal

delivery may be made to the Contractor's authorized representative at the Work site;
or

- (2) Certified mail addressed to the mailing address of the recipient postage prepaid; return receipt requested. Service shall be effective on the date of the receipt of the mailing.

Simultaneously, the Owner may send the same notice by regular mail. If a notice that is sent by certified mail is returned unsigned, then delivery shall be effective pursuant to regular mail, provided that the notice that was sent by regular mail is not returned.

- C. Notice to Cure: The Owner will issue a written notice to cure the default to the Contractor and its Surety. The Contractor shall commence satisfactory corrective actions within 5 Working Days after receipt.
- D. Notice of Termination for Default: If the Contractor fails to commence satisfactory corrective action within 5 Working Days after receipt of the notice to cure, or to diligently continue satisfactory and timely correction of the default thereafter, then the Owner will recommend to the Board that the Contractor be found in default of the Contract and upon such finding by the Board:
 - (1) Will terminate the Contractor's right to perform under the Contract by issuing a written notice of termination for default to the Contractor and its Surety;
 - (2) May use any materials, equipment, tools, or other facilities furnished by the Contractor to secure and maintain the Work site; and
 - (3) May furnish labor, equipment, and materials the Owner deems necessary to secure and maintain the Work site.

The provisions of this subsection shall be in addition to all other legal rights and remedies available to the Owner.

- E. Responsibilities of the Surety: Upon receipt of the written notice of termination for default, the Surety shall immediately assume all rights, obligations, and liabilities of the Contractor under the Contract. If the Surety fails to protect and maintain the Work site, the Owner may do so, and may recover all costs incurred. The Surety shall notify the Owner that it is assuming all rights, obligations, and liabilities of the Contractor under the Contract and all money that is due, or would become due, to the Contractor shall be payable to the Surety as the Work progresses, subject to the terms of the Contract.

Within 15 Working Days of receipt of the written notice of termination for default, the Surety shall submit to the Owner a written plan detailing the course of action it intends to take to remedy the default. The Owner will review the plan detailing and notify the Surety if the plan is satisfactory. If the Surety fails to submit a satisfactory plan, or if the Surety fails to maintain progress according to the plan accepted by the Owner, the Owner may, upon 48 hours written notice, exclude the Surety from the premises, take possession of all material and equipment, and complete the Work in any way the Owner deems to be

expedient. The cost of completing the Work by the Owner shall be charged against the Surety and may be deducted from any monies due, or which would become due, the Surety. If the amounts due under the Contract are insufficient for completion, the Surety shall pay the Owner, within 30 Days after the Owner submits an invoice, all costs in excess of the remaining Contract Price.

- F. Payment: The Surety will be paid for completion of the Work in accordance less the value of damages caused to the Owner by the acts of the Contractor.

6. TERMINATION OF THE CONTRACT FOR CONVENIENCE.

The Owner may terminate the Contract if it becomes impossible or impracticable to proceed, or because of conditions or events beyond the control of the Owner.

- A. Notice: The Owner will issue a written notice of termination for convenience as follows:

- (1) Personal delivery, with proof of delivery which may be made by declaration under penalty of perjury by any person over the age of 18 years. The proof of delivery shall show that delivery was performed in accordance with these provisions. Service shall be effective on the date of delivery. Notices given to the Contractor by personal delivery may be made to the Contractor's authorized representative at the Work site; or
- (2) Certified mail addressed to the mailing address of the recipient postage prepaid; return receipt requested. Service shall be effective on the date of the receipt of the mailing.

Simultaneously, the Owner may send the same notice by regular mail. If a notice that is sent by certified mail is returned unsigned, then delivery shall be effective pursuant to regular mail, provided that the notice that was sent by regular mail is not returned.

- B. Cessation of Work: Upon receipt, the Contractor shall immediately cease work, except work the Contractor is directed to complete by the District Administrator or required to complete for public safety and convenience. The Contractor shall immediately notify Subcontractors and suppliers to immediately cease their work.

- C. Payment: The Contractor will be paid without duplication for:

- (1) Work completed in accordance with Contract Documents prior to the effective date of termination for convenience;
- (2) Reasonable costs incurred in settlement of terminated contracts with Subcontractors, suppliers and others; and
- (3) Reasonable expenses directly attributable to termination.

The Contractor shall submit a final termination settlement proposal to the Owner no later than 90 days from the effective date of termination, unless extended, in writing, by the Owner upon written request by the Contractor.

If the Contractor fails to submit a proposal, the Owner may determine the amount, if any, due the Contractor as a result of the termination. The Owner will pay the Contractor the amount it determines to be reasonable. If the Contractor disagrees with the amount determined by the Owner as being reasonable, the Contractor shall provide notice to the Owner within 30 Days of receipt of payment. Any amount due shall be as later determined by arbitration, if the Owner and the Contractor agree thereto, or as fixed in a court of law.

7. DELAYS AND EXTENSIONS OF TIME.

- A. General: If delays are caused by unforeseen events beyond the control of the Contractor, such delays will entitle the Contractor to an extension of Contract time as provided herein, but the Contractor will not be entitled to damages or additional payment due to such delays, except as otherwise specified in Subsection 7C of this Contract. Such unforeseen events may include: war, government regulations, labor disputes, strikes, fires, floods, adverse weather or elements necessitating cessation of work, inability to obtain materials, labor, or equipment

No extension of time will be granted for a delay caused by the Contractor's inability to obtain materials unless the Contractor furnishes to the District Administrator documentary proof. The proof must be provided in a timely manner in accordance with the sequence of the Contractor's operations and the approved construction schedule.

If delays beyond the Contractor's control are caused by events other than those mentioned above, the District Administrator may deem an extension of time to be in the best interests of the Owner. The Contractor will not be entitled to damages or additional payment due to such delays, except as otherwise specified in Subsection 7C of this Contract.

If delays beyond the Contractor's control are caused solely by action or inaction of the Owner, such delays will entitle the Contractor to an extension of time per subsection B of this Contract.

- B. Extensions of Time: Extensions of time, when granted, will be based upon the effect of delays to the Work. They will not be granted for non-controlling delays to minor portions of the Work unless it can be shown that such delays did or will delay the progress of the Work.
- C. Payment for Delays: Pursuant to Public Contract Code Section 7102, the Contractor will be compensated for damages incurred due to delays for which the Owner is responsible. Such actual costs will be determined by the District Administrator. The Owner will not be liable for damages which the Contractor could have avoided by any reasonable means, such as judicious handling of forces, equipment or plant. The determination of what damages the Contractor could have avoided will be made by the District Administrator.
- D. Written Notice and Report: If the Contractor desires payment for a delay as specified in subsection C above or an extension of time, it shall file with the District Administrator a written request and report of cause within 30 Days after the beginning of the delay. The

request for payment or extension must be made at least 15 days before the specified completion date. Failure by the Contractor to file these items within the times specified will be considered grounds for refusal by the Owner to consider such a request.

- E. Time of Completion: The Contractor shall complete the Work in fifty (50) Working Days.
- F. Contract Time Accounting: The District Administrator will make a daily determination of each Working Day to be charged against Contract time. These determinations will be discussed and the Contractor will be furnished a periodic statement showing the allowable number of Working Days of Contract time, as adjusted at the beginning of the reporting period. The statement will also indicate the number of Working Days charged during the reporting period and the number of Working Days of Contract time remaining. If the Contractor does not agree with the statement, it shall file a written protest within 15 Days after receipt, setting forth the facts of the protest. Otherwise, the statement will be deemed to have been accepted.

8. COMPLETION, ACCEPTANCE, AND WARRANTY.

- A. Completion: The Contractor shall submit a written assertion that the Work has been completed. If, in the District Administrator's judgment, the Work has been completed in accordance with the Contract Documents, the District Administrator will set forth in writing the date the Work was completed. This will be the date when the Contractor is relieved from responsibility to protect and maintain the Work and to which liquidated damages will be computed.
- B. Acceptance: Acceptance will occur after all of the requirements contained in the Contract Documents have been fulfilled. If, in the District Administrator's judgment, the Contractor has fully performed the Contract, the District Administrator will recommend to the Board that the Contractor's performance of the Contract be accepted.
- C. Warranty: The Work shall be warranted by the Contractor against defective materials and workmanship for a period of 2 years. The warranty period shall start on the date the Work was completed as determined by the District Administrator.

The warranty period for specific items covered under manufacturers' or suppliers' warranties shall commence on the date they are placed into service at the direction of or as approved by the District Administrator in writing.

All warranties express or implied, from subcontractors, manufacturer, or suppliers, of any tier, for the materials furnished and work performed shall be assigned, in writing, to the Owner, and such warranties shall be delivered to the District Administrator prior to acceptance of the Contractor's performance of the Contract.

The Contractor shall replace or repair defective materials and workmanship in a manner satisfactory to the District Administrator, after notice to do so from the District Administrator, and within the time specified in the notice. If the Contractor fails to make such replacement or repairs within the time specified in the notice, the Owner may perform

the replacement or repairs at the Contractor's expense. If the Contractor fails to reimburse the Owner for the actual costs, the Contractor's Surety shall be liable for the cost thereof.

9. LIQUIDATED DAMAGES.

Failure of the Contractor to complete the Work within the time allowed will result in damages being sustained by the Owner. Such damages are, and will continue to be, impracticable and extremely difficult to determine. For each consecutive calendar day in excess of the time specified for completion of the Work, as adjusted in accordance with Section 7 above, the Contractor shall pay to the Owner, or have withheld from monies due it, the sum of \$500.00. Execution of the Contract shall constitute agreement by the Owner and the Contractor that \$500.00 per day is the minimum value of the costs and actual damage caused by the failure of the Contractor to complete the Work within the allotted time. Such sum is liquidated damages and shall not be construed as a penalty, and may be deducted from payments due the Contractor if such delay occurs.

10. INDEMNIFICATION

To the maximum extent permitted by Civil Code Section 2782 *et seq.*, Owner shall not be liable for, and Contractor shall defend, indemnify, and hold harmless Owner and its officers, agents, District Administrators, architects, consultants, employees and volunteers (collectively "Owner Parties"), against any and all claims, deductibles, self-insured retentions, demands, liability, judgments, awards, fines, mechanics' liens or other liens, labor disputes, losses, damages, expenses, charges or costs of any kind or character, including attorneys' fees and court costs (collectively referred to as "Claims"), which arise out of or are in any way connected to the work covered by this Contract arising either directly or indirectly from any act, error, omission or negligence of Contractor or its officers, employees, agents, contractors, sub-contractors, licensees or servants, including, without limitation, Claims caused by the concurrent negligent act, error or omission, of Owner Parties. However, Contractor shall have no obligation to defend or indemnify Owner Parties against Claims caused by the active negligence, sole negligence or willful misconduct of Owner Parties. This indemnification shall apply to all liability, as provided for above, regardless of whether any insurance policies are applicable, and insurance policy limits do not act as a limitation upon the amount of the indemnification to be provided by the Contractor.

11. INSURANCE.

Contractor, at its sole cost and expense, shall obtain and maintain in full force and effect throughout the entire term of this Contract, the following-described insurance coverage, insuring not only Contractor and its subcontractors, if any, but also, with the exception of workers' compensation and employer's liability insurance, the Owner, its officers, agents, and employees of each of them:

A. MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

- (1) Insurance Services Office Commercial General Liability coverage (Occurrence form CG 0001).

- (2) Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, code 1 (any auto).
- (3) Worker's Compensation insurance as required by the State of California and Employer's Liability Insurance.

B. MINIMUM LIMITS OF INSURANCE

Contractor shall maintain limits no less than:

- (1) General Liability: \$2,000,000 per occurrence for bodily injury, personal injury, and property damage. If commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this product / location or the general aggregate limit shall be twice the required occurrence limit.
- (2) Automobile Liability: \$2,000,000 per accident for bodily injury and property damage.
- (3) Employer's Liability: \$1,000,000 per accident for bodily injury or disease.

C. DEDUCTIBLES AND SELF-INSURED RETENTIONS

Any deductible or self-insured retentions must be declared to and approved by the Owner. At the option of the Owner, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Owner, its officers, officials, employees and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

D. OTHER INSURANCE PROVISIONS

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

- (1) The Owner, its officers, officials, employees, agents and volunteers are to be covered as insureds as respects: liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; premises owned, occupied or used by the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the Owner, its officers, officials, employees, agents or volunteers.
- (2) For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects the Owner, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the Owner, its officers,

officials, employees, agents or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

- (3) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the Owner, its officials, employees, agents or volunteers.
- (4) The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- (5) Each insurance policy required by this clause shall be endorsed to state the coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Owner.

E. ACCEPTABILITY OF INSURERS

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

F. VERIFICATION OF COVERAGE

Contractor shall furnish the Owner with original endorsements effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. The endorsements are to be on forms provided by the Owner. All endorsements are to be received and approved by the Owner before work commences. As an alternative to the Owner's forms, the Contractor's insurer may provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications.

G. SUBCONTRACTOR

Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

Contractors Property Damage Liability insurance shall include coverage for property damage caused by blasting, collapse, structural injuries or damage to underground utilities. The policy shall not contain "x", "c" or "u" exclusions.

Certificates of such insurance shall be filed with the Owner concurrently with the execution of this Contract or, with Owner's approval, within ten (10) days thereafter. Said certificates shall be subject to the approval of the Owner.

12. WORKERS COMPENSATION.

Contractor represents that he or she has secured the payment of Worker's Compensation in compliance with the provisions of the Labor Code of the State of California and during the performance of the work contemplated herein will continue so to comply with said provisions of said Code. Contractor shall supply the Owner with certificates of insurance, in triplicate, evidencing that Worker's Compensation Insurance is in effect and providing that the Owner will receive ten (10) days written notice of cancellation. If the Contractor self-insures Worker's Compensation, Certificate of Consent of self-insured shall be provided the Owner.

13. BONDS.

The Contractor shall forthwith furnish in triplicate two bonds, each in the amount of 100 percent of the Contract price. One shall serve as security for the faithful performance of the work (hereafter "Performance Bond"). The second bond shall serve as security for the faithful performance and satisfaction of the persons furnishing materials and performing labor on the work (hereafter "Payment Bond"). Both bonds shall be written by a surety company licensed to transact surety business in the State of California and in the form prescribed by law.

The Performance Bond shall remain in force throughout the period required to complete the work and thereafter for a period of 730 calendar days after final acceptance of the work. The Payment Bond will be released 35 days after the recording date of the Notice of Completion, provided no liens are filed with the Owner. The Payment Bond shall contain provisions such that if the Contractor or its subcontractor shall fail to pay (a) amounts due under the Unemployment Insurance Code with respect to work performed under the contract, or (b) any amounts required to be deducted, withheld and paid over to the Employment Development Department from the wages of the employees of the Contractor and subcontractors pursuant to Section 13020 of the Unemployment Insurance Code with respect to such work and labor, then the surety will pay these amounts. In case suit is brought upon the payment bond, the surety will pay reasonable attorneys' fees to be fixed by the court.

14. DEFECTIVE MATERIALS; DEFECTIVE WORK.

Should any of the materials or equipment prove defective or should the work as a whole prove defective, due to faulty workmanship, material furnished or methods of installation, or should the work or any part thereof fail to operate properly as originally intended and in accordance with the plans and specifications, due to any of the above causes, all within twenty four (24) months after date on which the completed project is accepted by the Owner, the undersigned agrees to reimburse the Owner, upon demand, for its expenses incurred in restoring said work to the condition contemplated in said project, including the cost of any such equipment or materials replaced and the cost of removing and replacing any other work necessary to make such replacement or repairs, or, upon demand by the Owner, to replace any such materials and to repair said work completely without cost to the Owner so that said work will function successfully as originally contemplated.

The Owner shall have the unqualified right to make any needed replacement or repairs after a written notice to cure has been served upon the Contractor and a reasonable time to cure has expired. In the event the Owner elects to have said work performed by the undersigned, the

undersigned agrees that the repairs shall be made within a reasonable time after the receipt of demand from the Owner. If the undersigned shall fail or refuse to comply with his obligations under this guaranty, the Owner shall be entitled to all costs and expenses, including attorney's fees, reasonably incurred by reason of the said failure or refusal.

15. LABOR STANDARDS.

- A. General: Contractor agrees that construction work shall be subject to the provisions of state and local regulations. In particular, Contractor agrees to comply with all applicable Labor Code requirements whether or not expressly stated herein.
- B. Wages:
- (1) General: The Contractor and each subcontractor engaged in the work shall pay each employee an amount not less than the rate established for each trade or occupation listed by the Director of the Department of Industrial Relations, State of California. An employee whose type of work is not covered by any of the classified wage rates shall be paid not less than the rate of wage listed for the classification which most nearly corresponds to the type of work to be performed.
 - (2) State: The Owner has obtained from the Department of Industrial Relations the general prevailing rate of wages in the vicinity of the work to be performed under this Contract. These wage rates are maintained on file by Owner at its principle office and will be made available to any interested party upon request.
 - (3) Enforcement: These wage rates shall be enforced under Sections 1770 through 1780 of the California Labor Code. The Contractor shall be liable for forfeitures or penalties incurred from noncompliance with Labor Code provisions.
 - (4) Payroll Records: Each Contractor and subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the work on the Project. Such records shall be certified and available for inspection at all reasonable hours at the principal place of the Contractor as required by Labor Code Section 1776. Certified payrolls shall be submitted weekly to Owner c/o District Administrator. Electronic certified payrolls shall also be submitted weekly directly to the Labor Commissioner, Division of Labor Standards Enforcement.
- C. Preference for Resident Labor: Whenever possible in the employment of labor for performance of the work, the Contractor shall give preference to qualified persons residing within the general area of the work.
- D. Hours of Labor: Pursuant to the Labor Code, eight hours of labor shall constitute a legal day's work. The Contractor or any subcontractor shall not require any more than eight hours of labor in a day from any person employed in the performance of the work under this Contract except for authorized work as provided under paragraph Subsection E below.

Failure of the Contractor to perform the work in accordance with this policy of the State of California shall be deemed a failure to comply with the provisions of this Contract.

- E. Overtime Work: In accordance with Labor Code Section 1813, the Contractor shall as a penalty to the State or political subdivision on whose behalf the Contract is made or awarded, forfeit twenty-five (\$25.00) for each worker employed in the execution of the 39Contract by the Contractor or by any subcontractor for each calendar day during which said worker is required or permitted to work more than eight hours in any one calendar day and forty hours in any one calendar week in violation of Labor Code Sections 1810-1815.

Overtime and shift work may be established as a regular procedure by the Contractor with reasonable notice and written permission of the Owner. No work other than overtime and shift work established as a regular procedure shall be performed between the hours of 6:00 p.m. and 7:00 a.m. nor on Saturdays, Sundays or holidays except such work as is necessary for the proper care and protection of the work already performed or in case of an emergency.

Contractor agrees to pay the costs of overtime inspection except those occurring as a result of overtime and shift work established as a regular procedure. Overtime inspection shall include inspection required during holidays, Saturdays, Sundays and weekdays between the hours of 6:00 p.m. and 7:00 a.m. Costs of overtime inspection will cover District Administrator, inspection, general supervision and overhead expenses which are directly chargeable to the overtime work. Contractor agrees that Owner shall deduct such charges from payments due the Contractor.

- F. Apprentices: The Contractor and subcontractors shall comply with the requirements of Sections 1777.5 and 1777.6 of the Labor Code in the employment of apprentices.

Information relative to apprenticeship standards, wage schedules, and other requirements may be obtained from the Director of Industrial Relations, ex officio the Administrator of Apprenticeship Standards and its branch offices.

- G. Compliance with SB 854: California Labor Code: Contractor represents that it has complied and will continue to comply with all applicable registration and disclosure requirements of SB 854 and acknowledges the following:

- (1) No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)]
- (2) No contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.
- (3) This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

- (4) No bid proposals will be accepted nor any contract entered into with a contractor without proof of registration described above.
- (5) Contractor must post any job site notices required by regulation. It is the Contractor's responsibility to know the current regulations.
- (6) Contractor must furnish electronic certified payroll records to the Division of Labor Standards Enforcement ("Labor Commissioner") as required. The Contractor is responsible for checking with the Department of Industrial Relations for any notices regarding this requirement.

16. LAWS, REGULATIONS AND PERMITS.

- A. General: The Contractor shall give the notices required by law and comply with all laws, ordinances, rules and regulations pertaining to the conduct of the work. The Contractor shall be liable for violations of the law in connection with work provided by the Contractor. If the Contractor observes that the drawings, specifications are at variance with any laws, ordinances, rules or regulations, the Contractor shall promptly notify the District Administrator in writing of such variance. The Owner shall promptly review the matter and, if necessary, shall issue a change order or take any other action necessary to bring about compliance with the law, ordinance, rule or regulation in question. Contractor agrees not to perform work known to be contrary to any laws, ordinances, rules, or regulations.
- B. Permits and Licenses: Unless otherwise specified herein, permits and licenses from governmental agencies which are necessary only for and during the prosecution of the work and the subsequent guarantee period shall be secured and paid for by the Contractor. Permits and licenses of regulatory agencies which are necessary to be maintained after completion of the guarantee period shall be secured and paid for by the Owner.
- C. Patents and Royalties: The costs involved in fees, royalties or claims for any patented invention, article, process or method that may be used upon or in a manner connected with the work under this Contract or with the use of completed work by the Owner, shall be paid by the Contractor. The Contractor and Contractor's sureties shall protect, defend, and hold Owner together with Owner's officers, agents and employees, harmless against any and all demands made for such fees or claims brought or made by the holder of any invention or patent. Before final payment is made on the account of this Contract, the Contractor shall, if requested by the Owner, furnish acceptable proof of a proper release from all such fees or claims.

Should the Contractor, agent, employee or any of them be enjoined from furnishing or using any invention, article, material or plans supplied or required to be supplied or used under this contract, the Contractor shall promptly pay such royalties and secure the requisite licenses; or, subject to acceptance by the Owner, substitute other articles, materials or appliances in lieu thereof which are of equal efficiency, quality, finish, suitability and market value to those planned or required under the Contract. Descriptive information of these substitutions shall be submitted to the District Administrator for determination of general conformance to the design concept and the construction Contract.

Should the Owner elect to refuse the substitution, the Contractor agrees to pay such royalties and secure such valid licenses as may be requisite for the Owner, Owner's officers, agents and employees or any of them, to use such invention, article, material or appliance without being disturbed or in any way interfered with by any proceeding in law or equity on account thereof.

17. CALIFORNIA LAW AND VENUE.

The terms of this Contract shall be governed by and construed in accordance with the laws of the State of California applicable to contracts entered into and to be performed in California. In the event any part of this Contract shall be held to be invalid, void, or otherwise unenforceable for any reason, the Contract shall be modified rather than voided, if possible, in order to achieve the intent of the parties to the extent possible and in any event, all other provisions of this Contract shall remain valid and enforceable.

18. MUTUAL NEGOTIATION.

Contractor acknowledges that the provisions herein have been mutually negotiated and neither party shall be construed to be the drafter of this Contract.

19. ATTORNEY'S FEES.

In the event of litigation concerning this Contract the prevailing party shall be awarded reasonable attorney fees and costs of suit, in addition to appropriate compensatory damages or other relief ordered for the benefit of the prevailing party.

IN WITNESS WHEREOF, the parties have executed this Contract as set forth below:

Calwa Recreation & Park District
(OWNER)

Tosted Asphalt, Inc.
(CONTRACTOR)

By: _____
Tim Chapa, District Administrator

By: _____

Date: _____

Title: _____

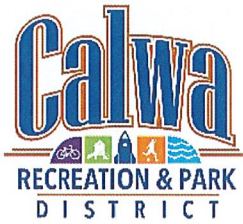
Approved as to Form:

Federal Taxpayer I.D. No.

Hilda Cantu-Montoy, District Counsel

Date: _____

Date: _____



For the Meeting of: 10/24/2024
Agenda Item No.: E-2

CALWA RECREATION & PARK DISTRICT REPORT TO THE BOARD

TO: Board of Directors

FROM: District Administrator, Tim Chapa

SUBJECT: Mini-Pitch Field Installation Purchase

RECOMMENDATION:

District Administrator recommends that the Board:

1. Adopt resolution approving agreement with Musco Lighting Dual Mini-Pitch System through the Sourcewell national joint powers agreement, in the amount of \$235,200 for the Purchase of the Field Installation Calwa Mini-Pitch System
2. Authorize the District Administrator to sign contract documents on behalf of the District.

SUMMARY:

This project will install the Musco Lighting Dual Mini-Pitch system, two side by side outdoor futsal fields measuring a total of 96 feet by 104 feet.

REASON FOR RECOMMENDATION:

The District has been working towards implementing this project for several years after having received grant funding through the State Parks OGALS program and the USSF Soccer Grant. The project will provide the field installation for the Dual Mini-Pitch Futsal Field. It includes two side by side fields, with LED lighting and SNAPSPO RTS patented sports court tile. The mini-pitch will be installed upon completion of the site preparation (by separate contract) and complete curing of the concrete pad.

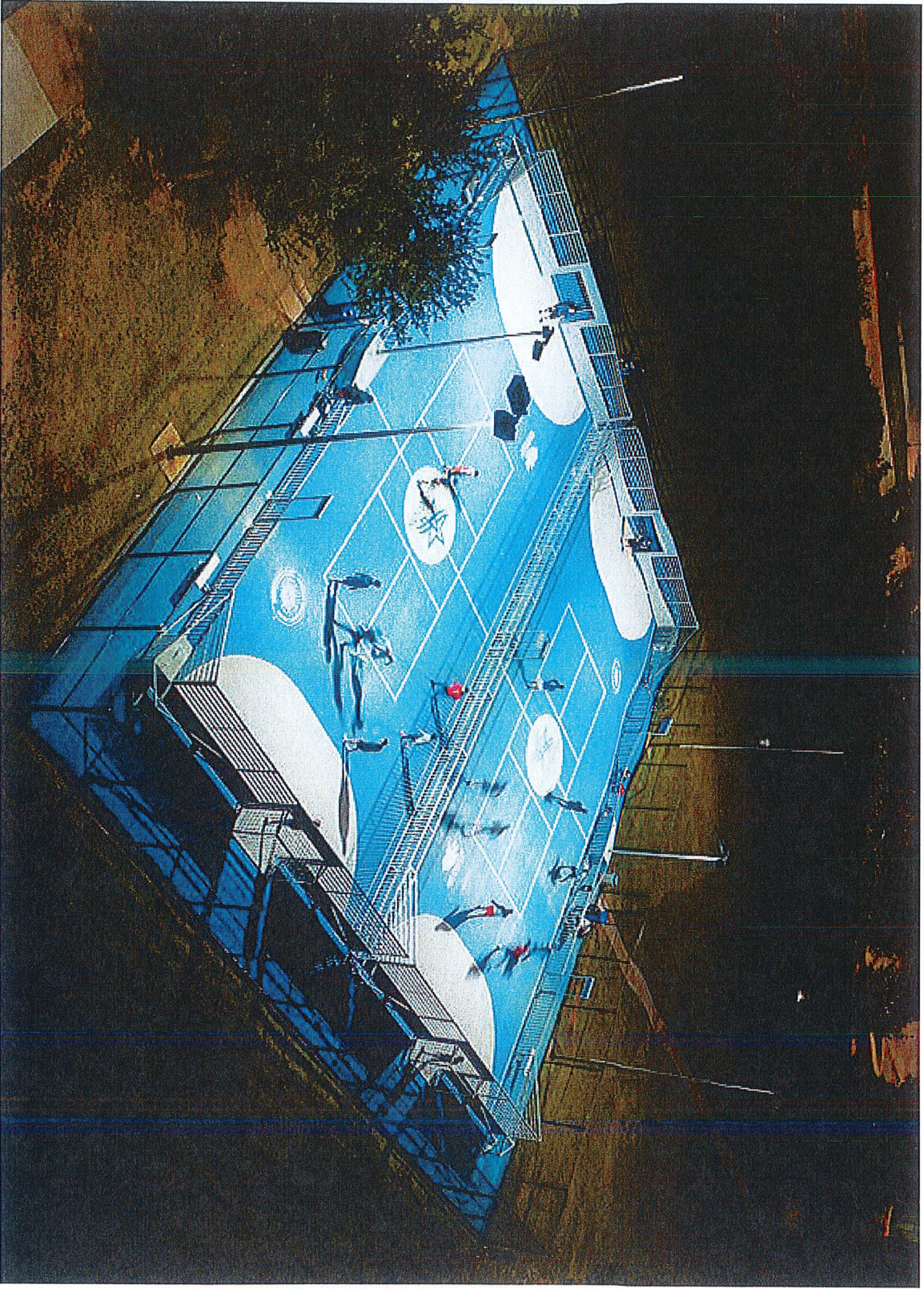
The purchase is being made in accordance with a joint powers agreement to procure equipment. The District is a member of Sourcewell, which is a national joint power agreement that was derived through a competitive bid process. It allows the District to piggyback onto that process and procure and make equipment purchases without internal bidding.. The District will be obtaining the Musco Lighting Dual Mini-Pitch System using Sourcewell Contract No. 041123-MSL.

FISCAL IMPACT:

Sufficient funds are budgeted for the project The project is being funded by State Parks OGAL funds of \$179,200, a \$20,000 USSF Soccer Grant and by local funds of \$252,000.

Attachments:

- Resolution
- Purchase Agreement



RESOLUTION NO. 2024-11

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE CALWA
RECREATION AND PARK DISTRICT APPROVING AGREEMENT
WITH MUSCO SPORTS LIGHTING, LLC FOR THE PURCHASE OF
THE FIELD INSTALLATION CALWA MINI-PITCH SYSTEM**

WHEREAS, the District may utilize joint powers agreements to procure equipment; and

WHEREAS, the Project consists of the field installation for the Dual Mini-Pitch Futsal System which includes two side by side fields, with LED lighting and SNAPSPTS patented sports court tile; and

WHEREAS, the District is a member of Sourcewell, which is a national joint power agreement that allows the District to procure and make equipment purchases directly as the Sourcewell process was competitively procured; and

WHEREAS, the District has considered the procurement of the Musco Lighting Dual Mini-Pitch System using Sourcewell Contract No. 041123-MSL for \$235,200 plus applicable taxes.

NOW, THEREFORE, the Board of Directors of Calwa Recreation and Park resolves as follows:

- (1) The foregoing recitals are true and correct and incorporated by reference.
- (2) Upon the recommendation of the District Administrator the Board approves the purchase of Musco Lighting Dual Mini-Pitch System through the Sourcewell Contract No. 041123-MSL in the amount of \$235,200.00 (Two Hundred Thirty Five Thousand Two Hundred Dollars and No Cents.), plus applicable taxes.
- (3) The District Administrator is authorized to sign the purchase agreement on behalf of the District.
- (4) This resolution shall become effective immediately upon its adoption.

(Certification on following page)

CERTIFICATION

Adoption of the foregoing Resolution No. 2024-11 was moved by Director _____ and seconded by Director _____ and adopted at a Regular Meeting held on October 24, 2024, by the following vote:

AYES: _____

NOES: _____

ABSTENTIONS: _____

ABSENCES: _____

Secretary of the Board of Directors

Purchase Agreement

Date: October 10, 2024

Project Name: Calwa Recreation Mini-Pitch

Project #: 232048

| | |
|---|---|
| 1. SELLER NAME AND ADDRESS: Musco Sports Lighting, LLC ("Musco") 100 1 st Avenue West – PO Box 808 Oskaloosa, IA 52577 Attn: Holly Swim Email: holly.swim@musco.com Telephone: 641-673-0411 800-825-6020 Ext 2974 Fax: 800-374-6402 | 2. BUYER NAME AND ADDRESS: Calwa Park and Recreation District (the "Buyer") 4545 E Church Ave Fresno, CA 93725 Attn: Tim Chapa Email: tchapa@calwarecreation.org Telephone: 559-344-3866 |
| 3. OWNER NAME AND ADDRESS: Calwa Park and Recreation District 4545 E Church Ave Fresno, CA 93725 Attn: Tim Chapa Email: tchapa@calwarecreation.org Telephone: 559-344-3866 | 4. SHIPPING NAME AND ADDRESS: Calwa Park and Recreation District 4545 E Church Ave Fresno, CA 93725 Attn: Tim Chapa Email: tchapa@calwarecreation.org Telephone: 559-344-3866 |
| 5. WARRANTY CONTACT: Calwa Park and Recreation District 4545 E Church Ave Fresno, CA 93725 Attn: Tim Chapa Email: tchapa@calwarecreation.org Telephone: 559-344-3866 | 6. FACILITY NAME AND ADDRESS: Calwa Recreation Mini-Pitch 4545 E Church Ave Fresno, CA 93725 |

7. **EQUIPMENT DESCRIPTION** – Musco shall sell, transfer, and deliver to Buyer, and Buyer will purchase, accept, and pay for the following goods (the "Equipment") in accordance with the "Total Price" paragraph of this Agreement:

Mini-Pitch System™ Modular Sports Solution with TLC for LED® Technology

- (1) 96 x 104ft Mini-Pitch System galvanized fence panels and structure
- Built-in goals
- Seating accommodations and cupholders
- Lockable storage
- (16) Signs
- (2) – 24 ft galvanized steel poles
- (4) – Factory aimed and assembled TLC for LED® luminaires
- Remote electrical component enclosures
- Control-Link® control cabinet

Built to the following specifications:

- Phase to pole: single phase
- Structural integrity: based upon CBC 2022, STD 95 MPH

8. **RESPONSIBILITIES OF THE BUYER AND/OR THIRD PARTY** - Buyer/Third Party agrees to:
Refer to responsibilities listed in the Installation Scope of Work in Exhibit A.



Purchase Agreement

Date: October 10, 2024

Project Name: Calwa Recreation Mini-Pitch

Project #: 232048

9. Control-Link Central™ customer support services: commission the system, provide automated facility management reports, provide on-off schedules via Control-Link Central™ app or website, email, or phone; and provide technical support 24 hours a day, seven days a week.

10. **MUSCO SERVICES** – Musco agrees to provide, itself or through its subcontractors, design, layout, testing and commissioning for the Equipment and the following (collectively, the "Services"):

Installation – refer to the Installation Scope of Work in Exhibit A.

11. **10-YEAR WARRANTY (the "Warranty")**

- **Warranty service begins:** On the date of product shipment
- Musco warrants your Mini-Pitch System™ modular sports solution to be free from defects in materials and workmanship as outlined in Musco's 10-Year Warranty. Musco agrees to provide labor and materials to replace defective parts or repair defects in workmanship. This includes all Musco manufactured product (wire harnesses, drivers, luminaires, poles, fence panels, goals, etc.).

12. **TOTAL PRICE** – Buyer will pay for the above-described Equipment and, if applicable, Services. The Total Price of \$235,200 plus applicable taxes is payable as follows.

- - \$20,000 VIK Soccer Grant
- \$215,200 within 30 days from invoice date

A copy of the payment and performance bond (if applicable) is required prior to shipment.

Monthly progress invoicing and payments will apply.

Final payment shall not be withheld by Buyer on account of delays beyond the control of Musco.

Project is being purchased through the following cooperative purchasing agreement:

Sourcwell (contract number 041123-MSL)

Price includes delivery, unloading, and installation to the address indicated in item #4 of this Agreement. Price does not include sales tax.

Payments not paid when due are subject to a carrying charge for each month past due or will be pro-rated for the portion of the month there is an unpaid balance. Carrying charges shall accrue in the amount of one and one half percent (1½%) per month of any overdue unpaid balance, or the maximum rate permitted by law, whichever is less.

Source of Funds: Buyer agrees that Buyer's payment to Musco is not contingent upon Buyer getting paid by the Owner/End User.

Buyer may not hold back or set off any amounts owed to Musco in satisfaction of any claims asserted by Buyer against Musco. No partial payment by Buyer shall constitute satisfaction of the entire outstanding balance of any invoice of Musco, notwithstanding any notation or statement accompanying that payment.

The Total Price was calculated utilizing parameters outlined in the project specifications. In the event soil conditions vary from those relied upon, or if the soil cannot be readily excavated, Buyer shall be responsible for Musco's additional associated costs, including but not limited to the cost of design, alternate foundations, additional materials, and labor.

13. **TAXES** – Buyer shall pay all applicable state and local sales taxes, use or any similar tax invoiced appropriately by Musco.

Taxable

Non-Taxable

(Copy of resale or exemption certificate must be attached. Note: Just holding a sales tax permit does not, in and of itself, qualify for a non-taxable sale.)



Purchase Agreement

Date: October 10, 2024

Project Name: Calwa Recreation Mini-Pitch

Project #: 232048

14. PAYMENT/PERFORMANCE BONDING – Is there a bond on this project? Yes No

| | |
|--------------------------|--|
| Principal Bond Holder: | |
| Bonding Company Name: | |
| Bonding Company Address: | |
| Bonding Company Address | |
| Phone Number: | |
| Bond Number: | |

15. DELIVERY – Normal delivery to the shipping address indicated above is 8 to 12 weeks after submittal approval or release of order, if later. If the Equipment is shipped in multiple lots, Musco shall prepare a separate invoice for the price of the Equipment shipped at the time of each shipment. Buyer shall pay the amount of each such invoice upon the same terms as set out in the "Total Price" paragraph of this Agreement. Equipment will be shipped after finance agreement is finalized between Buyer and Lender.

All deliveries shall be made by means of a common carrier or some other reasonable means chosen by Musco. All risk of loss to Equipment sold shall pass to Buyer upon Musco's substantial completion of the Services.

Delivery is subject to Buyer maintaining credit satisfactory to Musco. Musco may suspend or delay performance or delivery at any time pending receipt of assurances, including full or partial prepayment or payment of any outstanding amounts owed adequate to Musco in its discretion, of Buyer's ability to pay. Failure to provide such assurances shall entitle Musco to cancel this contract without further liability or obligation to Buyer.

16. NO RETAINAGE/WARRANTY – Buyer acknowledges payment in full is required within the agreed terms. Warranty claims and back charges shall not be deducted from contract payments without prior approval of Musco's Warranty Department (877-347-3319). Musco's Equipment and its performance are sold subject to Musco's written warranty. The Warranty provided by Musco shall be in lieu of all other representations, warranties and conditions of any kind, in respect of the Equipment or the Services and Musco disclaims any other representation, warranty or condition whatsoever, whether written or oral, express or implied, statutory or otherwise, including, but not limited to, the implied warranties and conditions of merchantability and fitness for a particular purpose.

Buyer acknowledges that any warranty and/or maintenance guarantee contained within payment/performance bonds issued on Musco's behalf pursuant to this Agreement and the corresponding liability on behalf of the issuing surety shall apply only to the first 12 months of any warranty and/or maintenance obligation of Musco specified in the written Warranty to be delivered to Buyer. The balance of any warranty and/or maintenance obligation greater than 12 months shall be the sole responsibility of Musco and shall not be guaranteed by a third party.

17. EXCLUSION OF SPECIAL DAMAGES – In no event shall Musco be liable for incidental, special or consequential damages, including without limitation lost revenues and profits, in respect of this Agreement or the Equipment and, if applicable, Services provided hereunder.

18. LIMITATIONS PERIOD – Unless otherwise specified in the Warranty to be delivered to Buyer, any action or proceeding against Musco arising out of or relating to the Equipment or Services will be forever barred unless commenced within the earlier of: (a) one (1) year after delivery of the Equipment or if applicable, completion of the Services; or (b) the period prescribed by the applicable statute of limitation or repose.

19. SECURITY AGREEMENT – In consideration of the promises contained herein, Buyer hereby grants and conveys to Musco, to secure payment and performance of all obligations in full, a purchase money security interest in the Equipment, including all repairs, replacements and accessions thereto and proceeds thereof (collectively referred to as the "Secured Property"). Buyer hereby irrevocably authorizes Musco at any time to register in any registration office in any province (including personal property registries and if applicable, land titles or real property registries) any initial financing statements, financing change statements, notices of security interest or other documents relating to this security interest or this transaction. Buyer further agrees to promptly furnish any information requested by Musco to effectuate

Purchase Agreement

Date: October 10, 2024

Project Name: Calwa Recreation Mini-Pitch

Project #: 232048

the terms of this Agreement. Buyer further agrees to execute any document reasonably required by Musco to perfect the security interest granted herein and to assure the preservation, priority, and enforcement of such security interest. Buyer agrees that value has been given for this security interest and that the parties have not agreed to postpone the time for attachment of the security interest.

20. **INSURANCE** – From and after delivery, regardless of the pending performance of the Services, until such time as Buyer has performed in full all obligations contained herein, Buyer shall maintain adequate insurance covering the Equipment in accordance with generally accepted business practices. Buyer shall name Musco as loss payee until such time as Buyer has performed in full all obligations contained herein.
21. **DEFAULT** – Each of the following shall constitute a default (“Default”) under this Agreement: a) failure to pay, in full, any payment when due hereunder; b) Buyer becomes the subject of a bankruptcy, receivership or insolvency proceeding; c) any warranty, representation or statement made or furnished to Musco by or on behalf of the Buyer proved to have been false in any material respect when made or furnished; d) loss, theft, damage, destruction or encumbrance to, or of, the Secured Property or the making of any lease, seizure or attachment thereof or thereon prior to payment in full; or e) the occurrence or non-occurrence of any event or events which causes Musco, in good faith, to deem itself insecure for any reason whatsoever.
22. **REMEDIES UPON DEFAULT** – In the event of Default, Musco may, at its option, and without notice or demand: a) declare the entire unpaid balance owing hereunder due and payable at once; b) proceed to recover judgment for the entire unpaid balance due; c) exercise all rights provided to Musco under this Agreement, any applicable personal property security act (or similar legislation), at law or in equity including but not limited to entering the Buyer’s premises and taking possession of the Secured Property. All the remedies described herein are cumulative and may be exercised in any order by Musco. Buyer agrees to pay all costs (including reasonable attorney’s fees and court costs) incurred by Musco in disposing of the Secured Property and collecting any amounts owing hereunder, and such costs shall be part of the obligations secured hereunder.
23. **FORCE MAJEURE** – Musco shall not be liable for delays or failure to perform in respect of the Equipment or the Services due, directly or indirectly, to (i) causes beyond Musco’s reasonable control, or (ii) acts of God or nature, acts (including failure to act) of any governmental authority, wars (declared or undeclared), strikes or other labor disputes, fires, and natural calamities (such as floods, earthquakes, storms, epidemics).
24. **EEO COMPLIANCE** – When applicable, Musco and Subcontractor shall comply with the EEO Clause in Section 202 of Executive Order 11246, as amended, which is incorporated herein by specific reference.
When applicable, Musco and Subcontractor shall abide by the requirements of 41 CFR 60-741.5(a) and 41 CFR 60-300.5(a). These regulations prohibit discrimination against qualified individuals on the basis of disability and against qualified protected veterans, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities and qualified protected veterans.
25. **CONDITIONS OF AGREEMENT**
 - a. **APPLICABLE LAW** – This Agreement shall be governed by the laws, including the Uniform Commercial Code, adopted in the State of Iowa as effective and in force on the date of this Agreement.
 - b. **EXPENSES/REMEDIES** – Buyer shall pay to Musco the reasonable expenses, including court costs, legal and administrative expenses, and reasonable legal fees (on a solicitor and client basis), paid or incurred by Musco in endeavoring to collect amounts due from Buyer to Musco. It is further understood that if Buyer does not make a payment as due, Musco has the right to forward appropriate notices or claims on jobs with owners, bonding companies, general contractors, or the like, as deemed appropriate by Musco.
 - c. **ENTIRE AGREEMENT** – This Agreement, the written Warranty to be delivered to Buyer, and any invoice issued by Musco pursuant to this Agreement constitute the entire agreement between the parties and supersede all prior statements of any kind made by the parties or their representatives.



Purchase Agreement

Date: October 10, 2024

Project Name: Calwa Recreation Mini-Pitch

Project #: 232048

No representative or employee of Musco has any authority to bind Musco to any term, representation, or warranty other than those specifically included in this written Agreement or the written Warranty to be delivered to Buyer in connection with this Agreement. This Agreement may not be amended or supplemented except by written agreement executed by Musco and Buyer.

- d. **ACCEPTANCE** – This Agreement is subject to the approval of Musco’s Credit Department and the written acceptance of this Order by Musco.

Calwa Parks and Recreation District

MUSCO SPORTS LIGHTING, LLC

Acceptance

Acceptance

this _____ day of _____, 20____

this _____ day of _____, 20____

Signature

Signature

Name and Title

Name and Title

Please remember to return all pages of this agreement.



EXHIBIT A

Customer/Electrical Contractor Responsibilities

General:

1. Provide complete access to the site for construction utilizing 2-wheel drive rubber tire equipment.
2. Locate existing underground utilities not covered by your local utilities. (i.e., water lines, electrical lines, irrigation systems, and sprinkler heads). Musco or subcontractor will not be responsible for repairs to unmarked utilities.
3. Locate and mark either the center or the corners of Mini-Pitch System™ per Musco supplied layout drawing.
4. Pay any power company fees and requirements.
5. Provide electrical service and distribution panel capable of handling electrical requirements of Mini-Pitch System™
6. Provide either a concrete or asphalt pad according to the requirements of corresponding Mini-Pitch System™.
7. Provide an area on site for disposal of packaging material (i.e., pallets, wood cribbing, and cardboard boxes) unless determined that Musco's subcontractor(s) will haul packing materials off-site.
8. Pay all permitting fees and obtain any required electrical or structural permits.

Musco Responsibilities:

1. Provide a complete Mini-Pitch System™
2. Provide concept and assembly drawings.
3. Provide an aiming drawing if lights are included.
4. Provide minimum specifications for pad based on the type of surface to be applied.
5. Provide Project Management as required.
6. Provide stamped design drawing as required.
7. Assist our installing subcontractor(s) and ensure our responsibilities are satisfied.

Musco Subcontractor(s) Responsibilities

General:

1. Provide storage containers for materials (including electrical components enclosures) as needed.
2. Provide necessary waste disposal and daily cleanup.
3. Provide adequate security to protect delivered products from theft, vandalism, or damage during the installation.
4. Confirm the existing underground utilities and irrigation systems have been located and are clearly marked in order to avoid damage from construction equipment. Repair any such damage during construction.

Purchase Agreement

Date: October 10, 2024

Project Name: Calwa Recreation Mini-Pitch

Project #: 232048

5. Limit heavy equipment travel on grass areas when possible—repair damage to grounds which exceeds that which would be normally expected. Indentations caused by heavy equipment traveling over dry ground would be an example of expected damage. Ruts and sod damage caused by equipment traveling over wet grounds would be an example of damage requiring repair.
6. Commence installation upon delivery and proceed without interruption until complete. Notify Musco immediately of any breaks in schedule or delays.
7. Dispose of hazardous materials in an approved manner.
8. Remove packaging material to owner designated location at jobsite.

Mini-Pitch System™ Installation:

1. Provide labor and all equipment to offload Mini-Pitch System™ at job site per scheduled delivery.
2. Provide labor, materials, and equipment to install Mini-Pitch System™ as specified by the assembly drawing.
3. Mark and confirm Mini-Pitch System™ location per drawing (or specifications) provided. If there are any issues, immediately notify your Musco Project Manager.

Electrical:

1. Provide a 120-volt control circuit as required on the concept drawing.
2. Provide a lighting circuit as required on the concept drawing.
3. Commission Control-Link® by contacting Control-Link Central™ at 877-347-3319.

Surface:

1. Provide labor, materials, and equipment to install surface and logos.
2. Clean, prepare, and repair surface according to the specifications of chosen products.

CODE OF CONDUCT

In order to maintain a high-quality jobsite and installation, subcontractor represents to Musco that it has the supervision necessary to, and shall train, manage, supervise, monitor, and inspect the activities of its employees for the purpose of enforcing compliance with these safety requirements. Subcontractor acknowledges that Musco does not undertake any duty toward subcontractor's employees to train, manage, supervise, monitor, and inspect their work activities for the purpose of enforcing compliance with these safety requirements, but subcontractor agrees to abide by any reasonable recommendations made by Musco or Musco representatives with respect to safety.

Subcontractor agrees that it is or will be familiar with and shall abide by the safety rules and regulations of Musco and the Owner, including, but not limited to the Occupational Safety and Health Act of 1970 (OSHA), all rules and regulations established pursuant thereto, and all amendments and supplements thereto.

Subcontractor further agrees to require all its employees, subcontractors, and suppliers to comply with these requirements. Subcontractor shall also observe and comply with all laws with respect to environmental protection applicable to the Project.

Subcontractor shall require all its subcontractors, employees, visitors, suppliers, and agents under its direction to comply with the following:

1. GENERAL JOBSITE SAFETY AND CLEANLINESS.

- a. Subcontractor's employees and agents shall be required to wear appropriate personal protective equipment including, but not limited to, safety glasses with side shields, work shoes, fall protection devices, and hard hats.
- b. Where a walking or working surface has an unprotected side or edge which is six feet or more above a lower level, subcontractor shall use guardrail systems, safety net systems, or personal fall arrest systems.
- c. Jobsite shall be kept free of debris including, but not limited to, cardboard and packing materials which can become windborne.
- d. Construction equipment shall be parked during non-use in an orderly fashion so as not to create inconvenience to others using the jobsite.
- e. Subcontractor shall provide for and ensure the use of safety equipment for the Project in accordance with Musco's and Owner's safety requirements, to the extent these may be stricter than federal, state, or local standards, or generally recognized industry applicable standards.

Purchase Agreement

Date: October 10, 2024

Project Name: Calwa Recreation Mini-Pitch

Project #: 232048

- f. Subcontractor shall provide the Musco project manager with an "Emergency List" showing Subcontractor's designated medical doctor, hospital, insurance company, and any other health service providers, such list to be updated within 24 hours of any change in the information provided.
 - g. Within eight (8) hours from the time of an accident (or such shorter period as laws may require), subcontractor shall advise Musco of any accident resulting in injury to any person or damage to any equipment or facility. Upon request, subcontractor shall promptly furnish Musco with a written report of any such accident as well as a copy of all insurance and worker's compensation claims involving the Project.
 - h. Subcontractor shall maintain and inspect all construction equipment, including cranes and other lifting equipment, prior to each use. Subcontractor warrants that all equipment operators shall be qualified for each piece of construction equipment they intend to operate. Documentation of specific training is the responsibility of the subcontractor.
 - i. Jobsite shall be policed daily for compliance to the above conditions.
 - j. Subcontractor's employees and agents are prohibited from using drugs and alcohol on the Project property or being under the influence of alcohol or drugs while performing work on the Project. Anyone observed participating in or observed under the influence will be removed from the Project immediately and prohibited from returning, with no exceptions.
2. CONFORMANCE TO STANDARD MUSCO INSTALLATION GUIDELINES.
- a. Review and understand installation instructions are provided with every product installation.
 - b. Education of installation personnel to allow for highest efficiency and lowest possibility of failure.
 - c. Verify that components have been assembled per Musco installation instructions.
 - d. Verify plumb of concrete foundations prior to standing of poles.
3. PROVIDING A QUALITY INSTALLATION TEAM.
- a. Subcontractor's work directly reflects the quality of the installation and may indirectly relate to the quality of the product upon which Musco's reputation is built.
 - b. Provide and maintain quality installation equipment. Records of maintenance and/or calibration shall be provided upon request.
 - c. Personnel shall be knowledgeable in operation of equipment as well as installation of Musco product.
 - d. All personnel provided by subcontractor shall understand the relationship developed by and between Subcontractor and Musco, also by and between Musco and the customer, and act accordingly.