



SAN FERNANDO

SUPPLEMENTAL ITEM NO. 7 AGENDA REPORT

To: Mayor Celeste T. Rodriguez and Councilmembers

From: Nick Kimball, City Manager
By: Julian Venegas, Director of Recreation and Community Services

Date: August 18, 2023

Subject: Consideration to Award a Contract Services Agreement to Great Western Recreation for the Pioneer Park Playground Renovation Project

BACKGROUND:

Subsequent to the preparation and distribution of the Agenda Packet, an update was provided from the City Attorney's Office and reflects contract amendments to include additional emphasis and verbiage under the RECITALS, Section 1. Scope of Work that states "*Subject to the terms and conditions of this Agreement, Contractor agrees to provide and perform services and tasks described in **Exhibit "B"** through a master cooperative agreement between the City of Charlotte, North Carolina and GameTime made through OMNIA Partners, a national public-sector cooperative purchasing clearinghouse, under OMNIA Partners Contract Reference No. 2017001134 (the "Master Cooperative Agreement Documents") (The Master Cooperative Agreement Documents are comprised of those documents found on the OMNIA Partners internet website at: <https://www.omniapartners.com/suppliers/gametime/public-sector/contract-documents#contract-168>.*"

RECOMMENDATION:

It is recommended that the City Council approve the revised contract to replace Page 1 and 2, with the attached revised Pages 1, 2, 3 and 4 (Attachment "A").

ATTACHMENT:

- A. Proposed updates to the contract (Pages 1-4)



2023

CONTRACT SERVICES AGREEMENT

(Contractor: Great Western Recreation)

(Nature of Engagement: Pioneer Park Playground Renovation Project)

(OMNIA Partners Cooperative Purchase Ref. No. 2017001134)

THIS CONTRACT SERVICES AGREEMENT (hereinafter, "Agreement") is made and entered into this _____ day of _____ 2023 by and between the CITY OF SAN FERNANDO, a municipal corporation (hereinafter, "CITY") and Great Western Recreation (hereinafter, "CONTRACTOR"). For the purposes of this Agreement, CITY and CONTRACTOR may be referred to collectively by the capitalized term "Parties." The capitalized term "Party" may refer to CITY or CONTRACTOR interchangeably.

RECITALS

WHEREAS, CITY is a municipal corporation organized under the laws of the State of California, with power to contract for services necessary to achieve its purpose; and

WHEREAS, CITY requires the design and installation of playground and outdoor exercise equipment for the Pioneer Park Playground Renovation Project; and

WHEREAS, CONTRACTOR possess the skills, experience and expertise required to competently provide the services and tasks contemplated under this Agreement; and

WHEREAS, Section 2-802 (Cooperative, piggyback and multiple awarded bid purchasing with other agencies) authorizes the CITY award contracts without first issuing a request for proposals if the purchasing agent determines it to be in the best interest of the CITY to piggyback onto or join into an existing written purchase contract obtained through a competitive bidding process prepared by and awarded by another local, state or federal government agency and where the services to be provided will be on the same or better pricing; and

WHEREAS, CONTRACTOR is a distributor and installer playground equipment manufactured by Playcore Wisconsin, Inc. dba GameTime (hereinafter "GameTime"); and

WHEREAS, in response to an inquiry by CITY staff, CONTRACTOR submitted a proposal entitled "Pioneer Park Playground Option 2C", Reference No. 08-02-2023, Job #109417-01 (the "Contractor Proposal") for the purchase and installation of GameTime playground equipment purchased under a master cooperative agreement between the City of Charlotte, North Carolina and GameTime made through OMNIA Partners, a national public-sector cooperative purchasing clearinghouse, under OMNIA Partners Contract Reference No. 2017001134 (the "Master Cooperative Agreement Documents") (The Master Cooperative Agreement Documents are comprised of those documents found on the OMNIA Partners internet website at: <https://www.omniapartners.com/suppliers/gametime/public-sector/contract-documents#contract-168> ; and

WHEREAS, the execution of this Agreement was approved by the San Fernando City Council in accordance with Section 2-802 of the San Fernando Municipal Code at its Regular Meeting of September 18, 2023 under Agenda Item No. 7.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, CITY and CONTRACTOR agree as follows:

SECTION 1. SCOPE OF WORK.

A. Subject to the terms and conditions of this Agreement, CONTRACTOR agrees to provide and perform the various services and tasks described in the following:

1. The Contractor Proposal, as defined and described in the Recitals, which is attached and incorporated hereto as **Exhibit "A"**;
2. The Master Cooperative Agreement Documents, as defined and generally described in the Recitals, and which includes the following documents all found on the OMNIA Partners internet website at: <https://www.omniapartners.com/suppliers/gametime/public-sector/contract-documents#contract-168> :
 - (i) The document entitled "Competitive Solicitation by the City of Charlotte, North Carolina for Playground Equipment, Outdoor Fitness Equipment, Site Accessors, Surfacing and Related Produces and Services on behalf of itself and other Government Agencies and mad available through the U.S. Communities Government Purchasing Alliance RFP #269-2017-028" dated January 25, 2017 inclusive of Addendum #1 dated February 10, 2017; Addendum #2 dated February 16, 2017; Addendum #3 dated February 20, 2017 (collectively the "Master RFP Documents"); and
 - (ii) That certain agreement between Playcore Wisconsin, Inc. d/b/a Game Time and the City of Charlotte, North Carolina dated July 1, 2017 and entitled "Contract to Provide Playground and Outdoor Fitness Equipment, Site Accessors, Surfacing, and Related Products and Services" as well as Contract Amendment #1 dated January 1, 2018; Contract Amendment #2 dated May 3, 2018; Contract Amendment #3 dated September 1, 2018; Contract Amendment #4 dated January 1, 2019; Contract Amendment #5 dated April 1, 2019; Contract Amendment #6 dated January 1, 2020; Contract Amendment #7 dated January 1, 2021; Contract Amendment #8 dated March 16, 2021; Contract Amendment #9 dated May 17, 2021; Contract Amendment #10 dated July 14, 202; Contract Amendment # 11 dated December 1, 2021; Contract Amendment #12 dated July 1, 2022; Contract Amendment #13 dated December 5, 2022; and Contract Amendment #14 dated July 10, 2023 (collectively, the "Master Cooperative Agreement");

- (iii) The document entitled "Lead Agency Procurement Self-Certification" dated March 2017 (the "Uniform Guidance Document"); and
- (iv) The document entitled "REPORT: Solicitation Download Detail – Washington's @lectronic Business Solutions" dated January 25, 2017 at 4:00PM (the "RFP 269-2017-028 Posting Document").

The Mater Cooperative Agreement Documents, identified above, are attached and incorporated hereto together in the order stated above as a single **Exhibit "B"** to this Agreement.

- B. For purposes of this Agreement, the capitalized term "Scope of Work" shall be a collective reference to the various services and tasks described in Exhibits "A" and "B" of this Agreement. In the event of any conflict or inconsistency between the provisions of Exhibit "B" and the provisions of Exhibit "A", the provisions of Exhibit "B" shall govern and control but only to the extent of the conflict or consistency and no further. In the event of any conflict or inconsistency as between the provisions of this Agreement and the provisions of Exhibit "A", the provisions of this Agreement shall govern and control but only to the extent of the conflict or inconsistency and no further. In the event of any conflict or inconsistency as between the provisions of this Agreement and the provisions of Exhibit "B", the provisions of Exhibit "B" shall govern and control but only to the extent of the conflict or inconsistency and no further.
- C. Subject to the provisions of the various documents referenced in paragraph (A) of this Section, CONTRACTOR shall provide all labor, materials, tools, supplies, equipment, services, tasks and incidental and customary work necessary to competently perform and timely complete the Services. CONTRACTOR shall perform the Services in accordance with the terms and conditions of this Agreement and in accordance with such other written or verbal directives as may be issued by CITY.
- D. The provisions of paragraph (B), above, notwithstanding:
 - 1. The resolution, reconciliation or harmonization of conflicts or inconsistencies as between the various exhibits or as between the various exhibits and this Agreement shall not be resolved, reconciled or harmonized in a manner that conflicts with the requirements of San Fernando Municipal Code Section 2-802 that any Work (inclusive of all equipment provided and installed) be provided and/or performed at the same or better pricing as is offered in Contractor Proposal and the Master Cooperative Agreement Documents; and
 - 2. Unless waived by the CITY in a writing signed by the City Manager, whenever a provision of an exhibit conflicts with, or is inconsistent with, a provision of another exhibit or a provision in this Agreement: (i) any provision imposing a higher duty or standard of care or performance by CONTRACTOR shall govern and control; and (ii) any provision granting the CITY greater discretion, authority or protection shall

govern and control.

- E. CONTRACTOR warrants that CONTRACTOR: (i) has thoroughly investigated and considered the nature of the Work to be performed under this Agreement and the location where all equipment is to be installed; and (ii) has carefully considered how the Work should be performed. CONTRACTOR acknowledges and agrees that it has had the opportunity to, inspect any location where the Work is to be performed and has acquainted itself with the conditions of the location before commencing any of the Work. Should the CONTRACTOR discover any latent or unknown condition(s) which will materially affect the performance of the Work, CONTRACTOR shall immediately inform the CITY of such discovery and shall not proceed, except at CONTRACTOR's risk until written instructions are received from the City Representative.

- F. In the event CONTRACTOR ceases to perform the Services agreed to under this Agreement or otherwise abandons any undertaking contemplated herein prior to the expiration of the Term, defined below, or any extension term, CONTRACTOR shall deliver to CITY immediately and without delay, all reports and other records and data which CONTRACTOR was required to provide or make available to CITY under this Agreement. Furthermore, CONTRACTOR shall only be compensated for the reasonable value of the services, tasks and other work performed up to the time of cessation or abandonment, less a deduction for any damages, costs or additional expenses which CITY may incur as a result of CONTRACTOR's cessation or abandonment.