



**DATE: JANUARY 25, 2012**

**FROM: CONSTRUCTION AND MAINTENANCE**

**SUBJECT: RESOLUTION NO. \_\_\_\_\_ - APPROVAL OF AN AGREEMENT WITH WET ENTERPRISES, INC. TO PROVIDE MAINTENANCE SERVICES FOR THE HARBOR BOULEVARD WATER FEATURES**

**SUMMARY:**

The Construction and Maintenance Division (C&M) is responsible for the maintenance of the Gateway Fountains, Reflection Pool and Interactive Fountain along Harbor Boulevard in San Pedro. C&M requests the approval of a one-year agreement with two one-year renewal options with WET Enterprises, Inc. (WET) of Sun Valley, CA for regular maintenance of these water features. The amount of this agreement shall not exceed \$382,080 per year, and the total amount for all three years (if both renewal options are exercised) shall not exceed \$1,153,920. The agreement will replace the current month to month agreement with WET at no additional cost. It will ensure that these unique water features will continue to perform at optimal levels for visitors to the Port of Los Angeles (Port).

**RECOMMENDATION:**

It is recommended that the Board of Harbor Commissioners (Board):

1. Find that in accordance with Los Angeles City Charter Section 1022, work under the subject agreement can be performed more feasibly by an independent contractor than by City employees;
2. Approve an agreement with WET Enterprises, Inc. in the amount of \$382,080 per year for a period of one-year with two one-year renewal options for a not-to-exceed three-year maximum of \$1,153,920;
3. Authorize the Executive Director to execute an agreement with WET Enterprises, Inc. and two one-year renewal options at the discretion of the Executive Director; and
4. Adopt Resolution No. \_\_\_\_\_ .

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**DISCUSSION:**

Background – Construction of the Gateway Fountains, Reflection Pool and Interactive Fountain along Harbor Boulevard in San Pedro at the World Cruise Center and near the intersection of First Street was completed under the oversight of the Engineering Division in 2008 by Sully-Miller, using the plans and designs of WET Design, a subsidiary of WET (Transmittal 1). In 2009, after a one-year warranty period, C&M assumed responsibility for the maintenance of the water features. Since the operational software and key mechanical elements of the systems were proprietary to WET Design, staff determined that a maintenance agreement with WET would be the most effective way to continue to maintain the water features.

As a result, a month to month agreement with WET was implemented while a long term contract was being negotiated. Protracted negotiations with WET Care, the maintenance subsidiary of WET Enterprises, Inc. were conducted, and no agreement was reached, largely due to disagreements over contract terms. The inability to reach agreement with WET, along with concerns over the proprietary nature of the equipment and software, resulted in the determination that a Request for Proposals (RFP) should be released to determine if other companies could perform some or all of the water feature maintenance. Details of the RFP are provided below.

RFP Development - The RFP Scope of Work was broken down into four modules (Transmittal 2). The module structure gave proposing companies the ability to submit proposals for one, two, three, or all four modules, including:

Module 1: Gateway Fountain Equipment/Mechanical Maintenance

Module 2: Gateway Fountain Water Quality Maintenance

Module 3: Interactive Fountain Equipment/Mechanical Maintenance and Water Quality Maintenance

Module 4: Reflection Pool Equipment and Water Quality Maintenance

This breakdown meant that more than one company could be awarded an agreement based on their proposals by module. Proposals were reviewed and scored based on their responses to the RFP's complete Scope of Work that included not only costs by module, but company strength, proposal quality, and other factors (Transmittal 3). It should be noted that this RFP and resulting agreement do not include any of the 27 songs played at the Gateway Fountains for special events and ceremonies. The song licenses are covered under a separate agreement with the Public Affairs Division.

RFP Process – The water feature maintenance services RFP was released on July 12, 2011 and posted on the Harbor Department's website and LABAVN. A pre-proposal meeting was held on July 20, 2011 to review the RFP and answer any questions

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pertaining to the document. The Harbor Department received proposals from two companies by the August 9, 2011 deadline: WET and California Waters.

The proposals were evaluated by a selection committee of four individuals: a Director of Port Construction and Maintenance II (C&M), a Mechanical Repair General Supervisor (C&M), a Port Electrical Mechanic Supervisor (C&M), and the Municipal Services Director of the City of Ontario, CA.

The proposals were scored based on the following criteria and weighting factors (these factors were included in the RFP):

- Firm Qualifications and Experience (25%),
- References and Financial Strength (10%),
- Project Organization, Personnel, and Staffing (15%),
- Project Approach and Work Plan (10%),
- Compensation Rates (25%), and
- Quality and Responsiveness of the Proposal (15%)

All four members of the selection committee reviewed and rated each proposal, and the committee interviewed the two proposing companies in person. Each member of the committee concluded that WET provided the superior maintenance proposal in each of the six evaluation categories. While California Waters did not submit a cost proposal for Module 1, every other comparison between the two companies resulted in WET scoring higher. The committee ranked WET Enterprises, Inc. as the best overall proposer (Transmittal 4). After a complete review, it is recommended that the Board award an agreement to WET Enterprises, Inc. (Transmittal 5).

It became clear throughout the process that due to the proprietary software and hardware used by WET, it is difficult for other vendors to compete on maintenance, and that the Harbor Department needs to examine other alternatives as a long term solution in lowering maintenance costs. These include replacing proprietary equipment and transitioning, if possible, to different software. Staff is conducting an examination of a project of similar size that is being retrofitted with non-proprietary components in order to determine the long-term viability and cost effectiveness of a retrofit. Information from this evaluation will be forthcoming in the next year and will be factored into the decision whether or not to exercise the renewal options. However, until a solution is identified, WET is clearly the best option available to ensure continued operation of the water feature to meet the expectations of the Harbor Department.

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**ECONOMIC BENEFITS:**

Spending under the proposed agreement will support 3 direct and 3 secondary jobs for the five-county region.

**ENVIRONMENTAL IMPACT:**

The proposed action is approval of an agreement with WET Enterprises, Inc. for the continued maintenance of the Gateway Fountains, Reflection Pool and Interactive Fountain along Harbor Boulevard, which is currently the responsibility of C&M. As a continuing maintenance activity, the Director of Environmental Management has determined that the proposed action is exempt from the California Environmental Quality Act (CEQA) in accordance with Article II, Section 2(f) of the Los Angeles City CEQA Guidelines.

**FINANCIAL IMPACT:**

Since taking responsibility for the Harbor Boulevard water features in 2009, C&M has spent \$31,838 per month, or approximately \$382,000 per year, on maintenance services through a month-to-month purchase order with WET Care. As a result of the RFP process and the final execution of the proposed agreement with WET Enterprises, Inc., maintenance costs will be maintained at the current level for two contract years, or until November 2013, when costs will rise approximately two percent to \$389,760 per year in the final year of the agreement (if renewal options are exercised).

Funding in the amount of \$159,200 has been budgeted in Account 54020 (Maintenance Services - Grounds), Center No. 0510 (Construction and Maintenance Division), Program No. 000 to cover this agreement's costs for the remainder of Fiscal Year 2011-12. Funding for future fiscal years will be requested as part of the annual budget process upon Board approval.

The Harbor Department's financial obligations after the current fiscal year are contingent upon the Board's appropriation of funds. If any subsequent fiscal year funds are not appropriated by the Board for the work required by the agreement, the agreement shall be terminated. However, such termination shall not relieve the parties of liability for any obligations previously incurred. A funding out clause is included in the agreement.

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CITY ATTORNEY:

The Office of the City Attorney has reviewed and approved the agreement as to form and legality.

TRANSMITTALS:

1. Map and Site Plan of Harbor Boulevard Water Features
2. RFP Scope of Work
3. RFP Selection Evaluation Form
4. RFP Scoring Detail
5. Agreement with WET Enterprises, Inc.

FIS Approval: JK (initials)

CA Approval: JK (initials)



JIM MORGAN  
Director of Port Construction and Maintenance



JOHN M. HOLMES  
Deputy Executive Director

APPROVED:



GERALDINE KNATZ, Ph.D.  
Executive Director

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File No. MGT-3-3  
HAR-9-1