



DATE: JUNE 8, 2011

FROM: CONSTRUCTION AND MAINTENANCE DIVISION

**SUBJECT: RESOLUTION NO. _____ - APPROVAL OF AGREEMENTS
WITH PARKER DIVING SERVICE, INC. AND AMERICAN MARINE
CORPORATION FOR UNDERWATER DIVING SERVICES**

SUMMARY:

The Construction and Maintenance Division (C&M) is responsible for the inspection and maintenance of timber wharves and the assessment of underwater slopes for wharf structures throughout the Port of Los Angeles (Port). C&M requests the approval of one-year agreements, each with two one-year renewal options, to Parker Diving Service, Inc. of Long Beach, California, and American Marine Corporation of San Pedro, California for on-call underwater diving services. The amount of each of these agreements shall not exceed \$550,000 per year, and the total for these services each year shall not exceed \$1,100,000. Two agreements are being issued for these services in order to ensure that the Harbor Department has the capabilities necessary to deploy two dive teams at any time.

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners:

1. Find that in accordance with Los Angeles City Charter Section 1022, work under the subject agreements (underwater diving services) can be performed more feasibly by independent contractors than by City employees;
2. Approve an agreement with American Marine Corporation, in the amount of \$550,000 per year for a period of one year with two one-year renewal options;
3. Approve an agreement with Parker Diving Services, in the amount of \$550,000 per year for a period of one year with two one-year renewal options;
4. Authorize the Executive Director to execute agreements with Parker Diving Service and American Marine Corporation and two one-year renewal options for each agreement at the discretion of the Executive Director; and
5. Adopt Resolution No. _____ .

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DISCUSSION:

Background - C&M is responsible for the inspection and maintenance of timber wharves and the assessment of underwater slopes for wharf structures throughout the Port. Underwater diving services are an essential part of the inspection and maintenance function. These services include:

- Annual inspection and evaluation of the condition of fenders, piles, and other underwater structures;
- Timber wharf maintenance repairs, including maintenance repairs performed in conjunction with a C&M surface crew;
- Participation in formal wharf damage inspections/surveys in order to document conditions;
- Inspection of new construction for conformance with City of Los Angeles (Harbor Department) specifications; and
- Inspection of plastic pile wrapping and seals to ensure proper installation.

Request for Bid Process – C&M initiated the bid process for diving services in September 2008 in anticipation of the expiration of its diving services contract with American Marine Corporation, Contract No. 39341, in January 2009. Subsequently, in accordance with Los Angeles City Charter Section 371(a), the Harbor Department posted Request for Bids (RFB) No. F-629 for underwater diving services on the Harbor Department's website and the Los Angeles Business Assistance Virtual Network (LABAVN) on August 25, 2009.

The bid employed an estimated use of diving services over the course of a year involving two primary dive teams and a secondary dive team, and requested rental rates for all necessary dive team equipment. Unfortunately, it took almost a year to issue this bid. A total of four bids were received by the due date. The lowest responsible bid was submitted by Parker Diving Service, with American Marine Corporation submitting the next lowest bid.

Bid Protest and Investigation - American Marine Corporation, the second lowest bidder, sent a letter to the Board of Harbor Commissioners (Board) (Transmittal No. 1) in November 2009 protesting the qualifications of Parker Diving Service (Parker). In essence, the claims were as follows:

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- Parker's bid is too low and will result in costly change orders to the Harbor Department;
- Parker, as a subcontractor to two Harbor Department construction contractors on two separate wharf rehabilitation projects, has been doing substandard work;
- Approximately ten years ago, the Harbor Department removed one of Parker's divers from one of its contracts due to improper work; and
- Parker does not have the vessels or gear that meet the Harbor Department's bid requirements.

American Marine followed up this letter with two additional letters, one to the Board dated December 14, 2009 and one to the Director of Port Construction and Maintenance dated March 19, 2010 (Transmittal Nos. 2 & 3). These letters echoed the earlier complaints and provided more recent examples of Parker's alleged work deficiencies stemming from inspections American Marine performed of their work. It should be noted that American Marine was engaged by the Construction Division through the C&M on-call diving services contract for the inspection of work performed by Parker as a subcontractor to a Harbor Department construction contractor. The work performed by American Marine under the on-call diving services contract was inspected by the C&M engineer overseeing the Timber Wharf Maintenance Program through underwater video tape and photographic inspection. There is no documented evidence of poor workmanship by American Marine.

C&M and Contracts and Purchasing Division staff conducted an extensive investigation of the claims made by American Marine. It was determined that in some cases there were deficiencies in work performed by Parker while as a subcontractor on the Harbor Department's Marine Improvements Contract. This contract contains a maintenance service clause covering work for up to one year from the date of completion. This work was not performed under the direct supervision of the Harbor Department, but was performed under the supervision of a construction contractor. Staff informed Construction Division Project Managers of the deficient work, who indicated that it is customary to identify deficiencies through inspection during the normal course of construction. Subsequently, staff was able to dismiss these allegations. Additionally, through this investigation, staff was also able to confirm that Parker had sufficient equipment to perform the contracted work.

Due to the length of the investigation (nine months), the bids were now almost one year-old and the term of the agreement stated on the bidding documents was likely to expire before a contract could be executed. As a result, staff rejected all bids and prepared for a new selection process.

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Current Request for Proposal Process – In order to allow for selection based on more than low bid, and to allow for the possibility of multiple contracts, staff decided to utilize a Request for Proposal (RFP) process. The resultant RFP was released on October 21, 2010 and posted on the Harbor Department's website and LABAVN (Transmittal No. 4). A pre-proposal meeting was held on October 28, 2010 to review the RFP and answer any questions pertaining to the document. The Harbor Department received proposals from three companies by the November 19, 2010 deadline.

The proposals were evaluated by a selection committee of five individuals: the Director of Contracts and Purchasing (CPD), a Director of Port Construction and Maintenance II (C&M), a Mechanical Repair General Supervisor (C&M), a Civil Engineering Associate III (C&M), and an Environmental Engineer (City of Los Angeles Department of Public Works – Bureau of Engineering).

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

- Firm Qualifications, Experience, and References (25%),
- Project Organization, Personnel, and Staffing (25%),
- Project Approach, Work Plan, Management, and Timeline (20%),
- Rates, Fees, and Budget Control (20%), and
- Quality and Responsiveness of the Proposal (10%)

All five members of the selection committee, including an evaluator from outside the Harbor Department, independently reviewed and rated each proposal (Transmittal No. 5). The committee ranked American Marine as the best overall proposer, and ranked Parker as the second best proposer (Transmittal No. 6). After a complete review, it is recommended that the Board award agreements to the top two scoring companies: American Marine Corporation and Parker Diving Service, with work being awarded based on task orders issued by the Harbor Department.

The selection of two companies is deemed advantageous in that it will not only provide the Harbor Department additional underwater service capabilities, but it will also ensure that the Harbor Department has the on-call capability to inspect underwater work performed by the contractor assigned the task. Work will be assigned to the dive teams of each company on a rotational basis by the Construction and Maintenance Division. Adjustments will be made as necessary to balance the work scope and task amounts in order to ensure that the work is fairly apportioned. As a result, the "do-not-exceed" amount of each agreement will be half of the amount annually budgeted for these services, or \$550,000 per year per company. Transmittal Numbers 7 and 8 are the proposed agreements with these companies.

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Current Protest From American Marine – American Marine sent a letter of protest (Transmittal No. 9) making allegations about the quality of Parker Diving’s work similar to the letter they sent in 2009-10 in response to the RFP process. Staff stands by its conclusion in 2010 that the allegations were not meritorious and recommends awarding agreements to both American Marine and Parker Diving as outlined in this report.

ECONOMIC BENEFITS:

Spending under these diving services agreements will support up to 12 direct and secondary one-year-equivalent jobs in the five-county region.

ENVIRONMENTAL IMPACT:

The proposed action is an agreement between the Harbor Department and Parker Diving Service and an agreement between the Harbor Department and American Marine Corporation to inspect and maintain the timber wharves and underwater slopes for wharf structures throughout the Port to ensure safe operations. The proposed action covers the agreements only, and physical work as a result of the contracts would require separate environmental analysis. As an administrative action, the Director of Environmental Management has determined that the proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) under Article II, Sections 2 (f) of the Los Angeles City CEQA Guidelines.

FINANCIAL IMPACT:

C&M spent \$1,346,386 in Fiscal Year 2007-08, \$1,098,135 in Fiscal Year 2008-09, and \$690,801 in Fiscal Year 2009-10 on underwater diving services. The decrease in expenditures from FY 2008 to FY 2010 is a result of eliminating the use of an as-needed dive team and reducing the number of annual wharf and wharf slope inspections. Due to the downturn in the economy and the impacts on the Harbor Department’s budget, the number of dive teams was reduced from two to one in the last year of the month-to-month contract period. This saved approximately \$20,000 per month, or \$240,000 per year. However, staff has determined that the lower level of inspection cannot be sustained and must be increased in the new agreements.

Funding in the amount of \$1,100,000 has been budgeted in Account 54040 (Maintenance Services - Wharves), Center No. 0510 (Construction and Maintenance Division), Program No. 000 for 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

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are not appropriated by the Board for the work required by the agreements, the agreements 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 each agreement.

CITY ATTORNEY:

The office of the City Attorney has reviewed and approved the agreements as to form and legality.

TRANSMITTALS:

1. American Marine Protest Letter (Undated – Approx. November 2009)
2. American Marine Protest Letter dated December 14, 2009
3. American Marine Protest Letter dated March 19, 2010
4. RFP Scope of Work
5. RFP Selection Evaluation Form
6. Scoring table
7. Agreement with American Marine Corporation
8. Agreement with Parker Diving Service
9. American Marine Protest Letter dated April 21, 2011

FIS Approval: WP (Initials)

CA Approval: JM (Initials)


JIM MORGAN
Director of Port Construction and Maintenance


JOHN M. HOLMES
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APPROVED:


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Executive Director

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