



CITY OF LONG BEACH

R-17

OFFICE OF THE CITY MANAGER

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May 9, 2017

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Consider approval of up to a \$10.5 million, ten-year loan to the Aquarium of the Pacific Corporation (Corporation) from the Tidelands Fund, subject to terms; and, authorize the City Manager, or designee, to execute the necessary documents in connection therewith including necessary amendments to the Implementation Agreement between the City and the Corporation. (District 2)

DISCUSSION

The Aquarium of the Pacific (Aquarium) is managed and operated, on behalf of the City by the Aquarium of the Pacific Corporation (Corporation), a 501(c)(3) non-profit organization. The Aquarium currently features 19 major habitats and 32 focused exhibits. The Aquarium is home to more than 11,000 ocean animals that represent nearly 500 species from the Pacific Ocean. It provides educational programs for children, families, and adults.

Since the Aquarium opened in 1998, both the City and the Corporation have worked together closely to provide an educational and safe environment for visitors. In 2006, the City and the Corporation entered into an Implementation Agreement that described the relationship from a formal perspective, including requirements with regard to maintenance and preservation of the facility.

Since the inception of the Aquarium, the Corporation has worked diligently to enhance the facility and attract visitors to the region. The Corporation has completed Phase I of the Campus Master Plan. Phase I included the Watershed, the Molina Animal Care Center, the Science on A Sphere, and expansion of retail facilities. Now, the Corporation wishes to proceed with construction of the Pacific Visions Project (Project), which is Phase II of the Campus Master Plan. The Project is a \$53 million educational exhibit expansion to the facility, which will feature a two-story, 50-foot high wing that will contain an immersive theater, a changing exhibit gallery, a pre-show area, a post-show gallery, as well as guest services for ticketing and membership. The Project will also include a new entrance facade with approximately 1,300 square feet of lobby space, and a 2,200 square foot addition to the existing 4,280 square foot retail store.

The Corporation believes that not only will this be a world class educational exhibit exploring major issues such as climate change, but it will also enhance the standing of the Aquarium as an attraction and further improve the attendance and financial standing of the Aquarium. The Project is expected to be funded by pledges received from donations and grants, including a \$15 million Challenge Grant from the City. Some of the donations and grants will be received over time, and fundraising is not yet complete. Accordingly, the Corporation needs \$10 million in net proceeds from a loan to provide for cash flow during construction of the Project. The Corporation was not able to secure a bank loan, due in part to the restrictions of the 2012 Aquarium Bond Indenture. However, the Corporation expects to be able to secure bank financing for an equipment lease and subsequent conversion to ownership when the equipment lease ends.

It is recommended that the City Council consider lending the Corporation up to \$10.5 million for up to ten years from the Tidelands Fund to be replenished by a future Tidelands bond issue. The bond issue is expected to be part of a larger Tidelands bond issue that will include funding for the previously approved Queen Mary improvements and for additional improvements associated with the marinas. The proposed loan to the Corporation would be structured so the debt service payments from the Corporation would reimburse the City for its debt service and costs on the portion of the Tidelands bonds for the Project. There are risks associated with the loan as described under Fiscal Impact.

The terms of the loan are:

1. A loan of up to \$10.5 million that will yield up to \$10 million in construction proceeds from the Tidelands Fund for the Project and issuance costs up to \$500,000 to allow the Corporation to make up for a temporary cash shortfall resulting from donation or grant commitments made, but not yet fully paid in cash. For ease of administration, the City will determine the method by which the Corporation pays issuance costs.
2. The loan may initially be a line of credit, as determined by the City, and will be structured to meet the cash flow needs of the Corporation and the City with regard to matching the debt service on any bond issue to reimburse the Tidelands Funds.
3. The term will be up to ten years and may have an early prepayment option. The amortization schedule will be as determined by the City, after discussion with the Corporation, subject to the requirement that the repayments from the Corporation must cover the City's debt service payments on bonds at the interest rate described below. The loan is expected to be repaid from "restricted" Corporation assets (donations and grants). If no bonds are issued by the City, the City will allow partial or full prepayment at any time, but otherwise the loan will be structured with approximately level debt service.

4. The loan interest rate will be at the expected (and subsequent actual, when and if issued) rate of a City bond issue, plus 0.5 percent, and plus the rate associated with any loss of investment earnings by the City based on the average interest rate on City investments. Issuance costs are also to be amortized in the overall debt service, if not directly paid by the Corporation. If a bond is not issued, the bond rate will be the ten-year Municipal Market Data (MMD) index, plus a credit spread for Tidelands Fund bonds plus any estimated prepayment premium, plus any implicit issuance costs, if not otherwise paid by the Corporation.
5. Debt service would be interest-only for the first two years.
6. The loan would have a lower repayment priority than any other loan to the Corporation that is required to complete the Project made by a separate organization.
7. The loan will be made pursuant to a loan agreement and evidenced by a promissory note.

The loan will also include other terms intended to protect the City; provide financial and operation information to allow the City to better assess the Corporation's financial status; clarify various financial matters; and, allow the Corporation to get other loans subject to City approval and compliance with the 2012 bond indenture and other requirements. These other terms include requiring the Corporation to secure the City's permission for major expansions or discretionary repairs, maintaining the existing Challenge Grant terms, acknowledging that not all project funding has been secured, notification by the Corporation of any non-timely payments or default, large Project change orders, or changes to the Project schedule, use of appropriate funding sources for any loan repayments, providing reports in a timeframe, form and content satisfactory to the City; and, the Corporation's commitment to acknowledge the major donor status of the City with permanent recognition and finding an appropriate location for "LONG BEACH" lettering.

The loan terms will include an amendment to the Implementation Agreement to further protect the City and that clarifies Corporation budget reporting and the City's authority to require reasonable changes to the budget presentation format and periodic reporting; clarifies that the City will own the Aquarium, equipment and other assets when the lease to the Corporation ends; requires the Corporation to continue to keep the City informed about any events or actions that may impact Corporation finances or operations; provides recognition by the Corporation of special events and the City's recognition that it will work to reasonably minimize potential revenue loss to the Corporation; clarifies the City's role with regard to the form and content of audited Corporation financial statements, expands the triggering of remedial steps to include any actual or budgeted non-timely full payment of debt service on any loan or of City rent; and, triggers the potential of further actions if three such events occur in any five-year period.

This matter was reviewed by Deputy City Attorney Richard F. Anthony and by Finance Director John Gross on April 25, 2017.

TIMING CONSIDERATIONS

City Council action is requested on May 9, 2017, to facilitate the Corporation's construction schedule for the Project and to avoid additional Project construction costs.

FISCAL IMPACT

The loan of up to \$10.5 million will be funded from a bond issue backed by Tidelands Fund revenues. The bond issue is expected near the end of 2017, but no later than the first half of 2018. If the Corporation requires cash in advance of the bond issue, the cash will come temporarily from Tidelands operating reserves, or from a temporary release of funds for projects not currently under construction. The cash will be restored when the expected Tidelands bonds are issued. No adverse impact on the Tidelands Fund or any Tidelands project is expected from the loan or the associated bond issue. However, there are risks associated with the loan. If the risks result in adverse events, they could have a significant adverse impact.

If for any reason the Corporation is not able to repay the loan or repay on time, or if the Project needs additional funding, it is possible that reserves of the Tidelands Fund may be used and/or that Tidelands projects may be impacted. The risk of these events happening is not insignificant. While the Corporation has taken steps to avoid issues, the Corporation has not yet raised the full funding required to complete the Project, and there are risks associated with construction costs and net operating costs.

Approval of the loan implies future City Council consideration of a bond issue providing up to \$10.5 million to reimburse the Tidelands Fund for the loan. While the bonds are outstanding (ten years or less), the bonds will marginally reduce the Tidelands Fund borrowing capacity for emergencies or other purposes; however, the relatively small reduction is not considered a practical concern.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,


PATRICK H. WEST
CITY MANAGER