



CITY OF LONG BEACH

DEPARTMENT OF FINANCIAL MANAGEMENT

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January 21, 2014

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Authorize the City Manager to execute a third amendment to the Implementation Agreement with the Aquarium of the Pacific, a California nonprofit public benefit corporation. (District 2)

DISCUSSION

On September 20, 2005, the City Council approved an Implementation Agreement with the Aquarium of the Pacific (Aquarium) to facilitate privately-funded expansion efforts. On November 20, 2007, the City Council approved a first amendment to the Implementation Agreement providing up to \$250,000 per year toward capital reinvestment opportunities. On February 21, 2012, the City Council approved the refunding of bonds by the Long Beach Bond Finance Authority in an amount not to exceed \$118 million related to the Aquarium. As part of such action, a second amendment to the Implementation Agreement was required to clarify the existing pledged revenues by the Aquarium toward the new bonds issued.

A third amendment to the Implementation Agreement is now needed to address a series of relatively minor issues that both the City staff and the Aquarium staff agree will improve the agreement and the City/Aquarium relationship. The changes are as follows:

Simplified rent payment by the Aquarium: Due to old and no longer relevant bond documents (bonds have been refunded), both the City and the Aquarium had to go through convoluted calculations and multiple payments with regard to the Aquarium debt service payments. The payments would also vary a bit from year to year. The agreement greatly simplifies the calculation of the rent payments without making any substantive change in the payment amounts (uses an average).

Reporting by the Aquarium to the City: The financial reporting required from the Aquarium has been clarified. For example, financial reporting due dates have been clarified and a new report format has been defined adding more detail. The new report will now include detailed financial and visitor attendance information, and information on year-to-date expenditures and maintenance expenditures.

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Required Maintenance Expenses: The Aquarium's minimum required maintenance expenses were changed to 6 percent of expenses (from 5 percent of revenues). This was intended to provide for a more stable minimum maintenance budget; it was not intended to change the average maintenance investment.

Simplification/Elimination of Unnecessary Wording: The wording of the agreement has been simplified where possible. For example, Section 12 of the agreement was deleted. This section allowed the City, at its option, to turn over the day-to-day operation and maintenance of the parking facility to the Aquarium. The City did not exercise this option and with the elimination of the budgeted parking revenues, this section was no longer applicable.

This matter was reviewed by Deputy City Attorney Linda T. Vu on January 7, 2014 and by Budget Management Officer Victoria Bell on January 6, 2014.

TIMING CONSIDERATIONS

City Council action is requested on January 21, 2014 in order to execute the amendment to the agreement.

FISCAL IMPACT

There is no material fiscal impact associated with this recommendation.

SUGGESTED ACTION:


Approve recommendation.

Respectfully submitted,



JOHN GROSS
DIRECTOR OF FINANCIAL MANAGEMENT

APPROVED:



PATRICK H. WEST
CITY MANAGER