



Administrative Report

H.16., File # 24-0652

Meeting Date: 4/16/2024

To: **MAYOR AND CITY COUNCIL**
From: LUKE SMUDE, ASSISTANT TO THE CITY MANAGER

TITLE

APPROVE AN AGREEMENT BETWEEN THE CITY OF REDONDO BEACH AND PACIFIC MARITIME GROUP, INC. REGARDING PACIFIC MARITIME GROUP'S ASSUMPTION OF LIABILITY FOR ANY FAILURE TO PROVIDE BARGE SERVICES NECESSARY FOR THE EXECUTION OF THE FIREWORKS DISPLAY AS STIPULATED IN THE AGREEMENT WITH GARDEN STATE FIREWORKS

APPROVE A REVISED AGREEMENT WITH GARDEN STATE FIREWORKS FOR PRODUCTION OF THE CITY'S 2024 FOURTH OF JULY FIREWORKS DISPLAY

EXECUTIVE SUMMARY

On April 9, 2023, the City Council approved an agreement with Garden State Fireworks (GSF) for the production of the City's 2024 Fourth of July Fireworks Display. The final, approved motion included the provision that the Agreement include the City of Redondo Beach as a third-party beneficiary to ensure the City was covered in the event of non-performance of barge services by Pacific Maritime Group. GSF did not accept these terms.

The City Attorney's Office has been able to negotiate an independent agreement with Pacific Maritime Group in which they assume liability for non-performance of barge services associated with the production of the Fourth of July Fireworks Display. Additional changes are also recommended to the GSF Agreement to change applicable dates, remove reference to the third-party coverage in their subcontractor agreement with Pacific Maritime Group, and references to "volunteers" in Exhibit D.

Staff recommends approving the Agreement with Pacific Maritime Group as well as the approval of the updated terms for inclusion in the GSF Agreement.

BACKGROUND

In order to achieve the spirit of the motion adopted on April 9, 2023, the City Attorney's Office negotiated an Agreement with Pacific Maritime Group to assume any liability associated with the non-performance of barge services associated with the City's Fourth of July Fireworks Display. GSF did not agree to the amendments to the GSF Agreement as modified by City Council.

Addressing the liability for barge services independently allowed the City to craft an updated Agreement with GSF removing that language as well as updating other items. These changes include:

- Commencement Date of the Agreement moving from April 9, 2024 to April 16, 2024
- Deadline for GSF to submit Barge Agreement moving to April 17, 2024
- Removing language in Section 8 of Exhibit A requiring GSF to name the City as a third-party beneficiary in their subcontractor agreement with Pacific Maritime Group
- Removing all references to “volunteers” in Exhibit D

Taken together, the City will be shielded from any liability associated with non-performance of barge services in a manner that is acceptable to all parties. If Pacific Maritime Group defaults on the barge service, GSF will retain its payment in the amount of \$103,171. This sum includes the payment for the fireworks display and the subcontracting of the barge with an added markup. It should be noted that liability covered by Pacific Maritime Group’s contract with GSF may not reflect the full amount the City owes to GSF for the production of the Fourth of July Fireworks Display.

COORDINATION

This report was coordinated with the Community Services Department and the City Attorney’s Office. The City Attorney’s Office has approved the Agreements with Pacific Maritime Group and GSF as to form.

FISCAL IMPACT

There is no additional fiscal impact associated with this item. The Total allocation of funding for the Fourth of July Fireworks Display will remain \$115,532.84.

APPROVED BY:

Mike Witzansky, City Manager

ATTACHMENTS

- Agmt - Pacific Maritime Group Assuming Liability for Non-Performance of Barge Services
- Agmt - Updated Agreement with Golden State Fireworks for Production of the City’s Fourth of July Fireworks Show
- Administrative Report - City Council, April 9, 2024