

STAFF REPORT*CITY OF OCEANSIDE*

DATE: August 15, 2012
TO: Honorable Mayor and City Councilmembers
FROM: Public Works – Harbor & Beaches
SUBJECT: **PURCHASE ORDER FOR REPLACEMENT HARBOR DOCKS**

SYNOPSIS

Staff recommends that the City Council approve a purchase order in an amount not to exceed \$130,000 to Bellingham Marine Industries, Inc., (BMI) of Bellingham, Washington, for replacement docks for the Launching Ramp Docks at the Oceanside Harbor, and authorization for the Financial Services Director, or designee, to execute the purchase order.

BACKGROUND

Each year, the Department of Harbor and Beaches Maintenance Division replaces and/or upgrades selected docks in the harbor. During FY 2012-13, the three launching ramp docks will be replaced. These docks are heavily used by boaters and have reached the end of their useful lifespan.

ANALYSIS

The launch ramp docks to be utilized on this project consist of 1) special thickened flotation tubs provided solely to BMI for the grounding of these docks at lower tides, 2) paraffin injected treated southern yellow pine provided solely to BMI for superior moisture control, stability, strength and weight, 3) and patent pending steel reinforced connections which allow superior shipping, strength, and redundancy specifically required for launch ramp docks that undergo extreme dynamic loadings and impacts. BMI is the sole source provider for the dock products necessary for the completion of this project.

FISCAL IMPACT

The cost for the concrete floats, waler boards, plywood fillers, vinyl rub rails, weldments, pile rollers and hardware is \$129,838.75 and will come from the available budget in Harbor Maintenance Marine Account (600627101.5320.100447).

COMMISSION OR COMMITTEE REPORT

Does not apply.

CITY ATTORNEY'S ANALYSIS

The referenced documents have been reviewed by the City Attorney and approved as to form.

RECOMMENDATION

Staff recommends that the City Council approve a purchase order in an amount not to exceed \$130,000 to Bellingham Marine Industries, Inc., (BMI) of Bellingham, Washington, for replacement docks for the Launching Ramp Docks at the Oceanside Harbor, and authorization for the Financial Services Director, or designee, to execute the purchase order.

PREPARED BY:

SUBMITTED BY:

J. F. Quan
Frank Quan
Harbor & Beaches Coordinator

Peter A. Weiss
Peter A. Weiss
City Manager

REVIEWED BY:

Michelle Skaggs-Lawrence, Deputy City Manager

Teri Ferro, Financial Services Director

[Signature]
[Signature]

ATTACHMENT 1

Bellingham
Marine
Industries, Inc.

P.O. BOX 16054
Wilmington, NC 28408
www.bellingham-marine.com

(910) 790-0313
FAX (910) 790-0312
bmi@bellingham-marine.com



July 2, 2012

Department of Harbor & Beaches
City of Oceanside
1540 Harbor Drive North
Oceanside, CA 92054-1070

Attention: Steve Rodriguez

Reference: Oceanside Harbor Boat Launch

Dear Mr. Rodriguez:

Thank you for the opportunity to present our quotation for the above referenced project. The purpose of this written proposal is to present our offer to perform the work identified in this proposal.

Our quoted price is One Hundred Twenty Nine Thousand Eight Hundred Thirty Eight Dollars and 75/100 (\$129,838.75) including sales tax.

Supply	\$120,500.00
Tax	\$ 9,338.75
Total	\$129,838.75

Prices are contingent upon receipt of all plans, specifications, data and/or other reports issued pertaining to the project.

F.O.B.: Oceanside, California

1. The following items are included in our proposal:
 - 1.1 DRAWINGS – Customer Approval Drawings

Initial _____ / Initial _____

- 1.2 BMT ML32 SYSTEM - which, when assembled in the water will make up the following:
 - 1.) Twenty Four (24) – 10'-0" x 12'-3" Segmented Docks
 - 2.) Four (4) – 10'-0" x 18'-8" Segmented Docks
 - 1.3 FABRICATED, TREATED (ACQ-D) WOOD WALER SYSTEM - all walers to be Southern Yellow Pine, No. 1. Including mechanically laminated double 2 x 10 walers on all walkways.
 - 1.4 CONTINUOUS DECKING – Custom BMT 2x6 ACQ-D Treated SYP Decking attached with #10 S/S Decking Screws.
 - 1.5 GALVANIZED STEEL WELDMENTS – Hot dipped galvanized hinge connection brackets (56 each).
 - 1.6 STEEL HARDWARE – Hot dipped galvanized bolts, nuts, washers and stainless steel screws.
 - 1.7 MOORING CLEATS – 72 each 12" size with attachment bolts.
 - 1.8 VINYL FENDERING – Premier Materials Model 5001 or equal, gray in color. Continuous at all berthing areas.
 - 1.9 FLOTATION TUBS – MAI Eagle Floats.
 - 1.10 LOADING AND SECURING ON OUR TRUCKS WITH FREIGHT PREPAID TO OCEANSIDE, CALIFORNIA.
 - 1.11 COMPRESSED DOCK MODULES FOR SHIPPING AND SITE ASSEMBLY. Walkways will be shipped as compressed modules to the site to be assembled by others as described in the assembly procedures and drawings.

Cleats will not be installed. Any accessory such as side pile guides may be shipped loose for loading convenience as determined by BMI.
 - 1.12 UHMW RUB PADS - 4 each per pile, 32 total.
 - 1.13 ONE BMT CERTIFIED TECHNICIAN TO SUPERVISE CUSTOMER PROVIDED CREW FOR SITE ASSEMBLY FOR ONE (1) WEEK.
 - 1.14 CALIFORNIA STATE SALES TAX
2. **All items and quantities not specifically included in Section 1 above are *specifically excluded from this proposal*. Excluded items include, but are not limited to, the following:**
- 2.1 PILING OR PILE DRIVING.

- 2.2 OFFLOADING.
 - 2.3 INSTALLATION TOOLS AND EQUIPMENT – Suitable tools and equipment (5,000 lb. capacity forklift / crane, etc.) in good working order to be supplied by contractor at jobsite for offload and module placement.
 - 2.4 LABOR – Contractor will supply a 3 man labor crew for site and in water assembly.
 - 2.5 ASSEMBLY AND INSTALLATION OF:
 - 1. BMT TIMBER SYSTEM
 - 2. Flotation Tubs
 - 3. End Caps
 - 4. Weldments
 - 5. Cleats
 - 6. Rub strip, shim, trim and pile rub blocks and any other assembly parts
 - 7. Pedestrian ramp or shoreside approaches and hardware
 - 8. Plumbing or electrical utilities, conduit, attachment devices and fixtures
 - 2.6 INSTALLATION OF ELECTRICAL SYSTEM.
 - 2.7 INSTALLATION OF MECHANICAL SYSTEM.
 - 2.8 INSTALLATION OF FIRE SYSTEM.
 - 2.9 PEDESTRIAN GANGWAY RAMPS.
 - 2.10 LOCKER BOXES.
 - 2.11 PERMITS AND LICENSES.
 - 2.12 SOILS TESTING OR ENGINEERING.
 - 2.13 PROJECT ENGINEERING.
3. Other provisions:
- 3.1 FREEBOARD: The timber flotation system included in this proposal is calculated to maintain a freeboard of 18", plus or minus 1".
 - 3.2 DESIGN CRITERIA: The Bellingham Marine Timber dock system is designed for a significant wave height of one foot and a maximum wind pressure of 15 psf. Bellingham Marine (BMI) has based its proposal upon design criteria furnished by Buyer, which includes site conditions relative to wind and wave exposure. If this design criteria is incorrect, BMI will be entitled to an adjustment in the contract amount, time for completion, or both.

- 3.3 CONCEALED OR UNKNOWN CONDITIONS: In preparing this proposal, BMI has assumed there are no concealed conditions (subsurface or otherwise) or unknown physical conditions which will adversely impact the flotation system performance.
- 3.4 UTILITIES: Provisions will be made for utilities to be run internally through the float system. Built in chaseways for utility routing can accommodate up to 3-1/2" x 18" to accommodate services.
- 3.5 SHIPMENT: Will occur within 8 weeks after receipt of approved shop drawings, based on our current production schedule. Manufacture of the timber flotation system cannot commence prior to receipt of approved shop drawings. BMI shall not be liable to Buyer for any delay in the supply of materials which is beyond the control of BMI, including, but not limited to, delays caused by weather, acts of God or public enemy or terrorist act, casualty, failure of Buyer to procure necessary permits, failure of Buyer to properly prepare the site or by any government restriction upon the availability or use of labor or materials.
- 3.6 PRICE VALIDITY: Prices are valid for firm orders placed within a period of thirty (30) days after quotation and are subject to reconfirmation thereafter.
- 3.7 PAYMENT TERMS: 50% percent deposit and 50% balance due upon completion of site assembly. Payments are due net ten (10) days from receipt of invoice. Method of payment to be approved by BMI's credit department prior to start of manufacture. Interest will be charged on past due accounts at 18% per annum, or at the highest non-usurious commercial rate allowable by state law or provided by state statute, whichever is less. If BMI is required to employ an attorney to collect any amount due as a result of the default of Buyer, the Buyer shall pay all costs of collection, including reasonable attorney's fees and court costs.
- Payment is not subject to retention.
- Prior to commencement of project, Buyer shall provide evidence of financing satisfactory to BMI.
- In the event of any project delay caused by Buyer which is greater than thirty (30) days, Buyer shall pay BMI for all work completed and stored. Storage fees will accrue at the rate of 1.5% per month commencing on the 31st day of delay.
- 3.8 ENGINEERING/CODES/RESPONSIBILITY: In the event changes to the timber flotation system are required in order to meet specific local ordinances or codes, the proposal amount and time to complete will be equitably adjusted.
- 3.9 BACKCHARGES: Backcharges for corrective work performed by Buyer or its representative will not be honored without BMI's prior written acceptance. BMI at all times retains the right to perform corrective work on its own behalf.

- 3.10 **WARRANTY:** The timber flotation system tubs carry a fifteen (15) year manufacturer's warranty for defects in materials and workmanship from the date of shipment. All other dock components (including but not limited to walers, weldments, filler panels, hardware and fiberglass components) will be free of defects in materials and workmanship for a period of one (1) year from the date of shipment. If within the warranty period the materials are found to be defective, the Buyer must provide written notice of such defects within ten (10) days from the date the defects are discovered. Buyer's sole and exclusive remedy for defective materials and workmanship is limited to the repair or replacement of the defective item by BMI. BMI is not liable for consequential or incidental damages resulting from such defects. BMI hereby disclaims any and all implied warranties, including but not limited to warranties of merchantability or fitness for a particular purpose.

The timber flotation system is intended for protected installations such as exist behind a permanent, fixed breakwater or floating concrete wave attenuator furnished by BMI. Damage resulting from exposure of the timber flotation system to wave heights exceeding twelve (12) inches is specifically excluded from this warranty. BMI's warranty also excludes coverage for any loss, liability, damage or defect caused by abuse, misuse, accident, neglect, improper or insufficient maintenance, or to any equipment or products which have been repaired or altered by any person not authorized by BMI.

- 3.11 **INDEMNIFICATION:** The Buyer shall assume all liability, including but not limited to liability for injury to person or property, economic loss, and business interruption, for claims arising from the actual use of any equipment, products, or materials furnished by BMI, and agrees to indemnify and hold harmless BMI from any and all claims, demands, actions, or suits arising from the use of such products, materials, or equipment, including reasonable attorney's fees and costs.

Notwithstanding anything herein to the contrary, BMI's cumulative liability to Buyer will under no circumstances exceed the total amount paid to BMI. In any case BMI WILL NOT BE RESPONSIBLE FOR ANY SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND, OR FOR LOSS, DAMAGES, OR EXPENSE DIRECTLY, OR INDIRECTLY, ARISING FROM THE USE OF ANY PRODUCTS OR ANY INABILITY TO USE THEM, EITHER SEPARATELY OR IN COMBINATION WITH ANY OTHER EQUIPMENT OR MATERIAL OR FROM ANY OTHER CAUSE.

- 3.12 **CAUTION:** Float systems are unstable when placed in the water prior to assembly in their final intended configuration. Subassemblies should be handled with care during installation and should never be stood or walked upon prior to finished assembly.
- 3.13 **WARNING:** BMI has been notified by its wood preservers that some chemicals used in the wood treatment process are known to cause cancer.
- 3.14 **CLAIMS Definition:** A claim is a demand or assertion by one of the parties seeking, as a matter of right, adjustment or interpretation of contract terms,

payment or money, extension of time or other relief with respect to the terms of the contract. The term "Claim" also includes other disputes and matters in question between the Buyer and Seller arising out of or relating to the contract including, but not limited to, Claims against officers, directors, employees or consultants of a party for matters arising out of or relating to the Work under the contract. Claims must be made by written notice. The responsibility to substantiate a Claim shall rest with the party making the Claim.

Time Limits on Claims. Claims by either party must be made within twenty-one (21) days after occurrence of the event giving rise to such Claim or within twenty-one (21) days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Claims must be made by written notice. An additional Claim made after the initial Claim has been resolved by Change Order will not be considered unless submitted in a timely manner.

3.15 DISPUTES

Arbitration. Controversies, disputes or claims in an amount up to and including \$250,000 arising out of, in connection with, or in relation to the interpretation, performance or breach of this Proposal, including any claim based on contract, tort, or statute shall be referred to final and binding arbitration administered by and in accordance with the then existing Construction Industry Arbitration Rules of the American Arbitration Association, and judgment upon any arbitration award may be entered by any state or federal court having jurisdiction thereof. The prevailing party in any such arbitration shall be entitled to an award of reasonable attorney's fees and costs. Arbitration shall be heard and determined by a single arbitrator, the location of the arbitration hearings shall be Minneapolis, Minnesota, USA.

In the event a dispute between the parties is referred to arbitration, as soon as practical after selection of the arbitrator, the arbitrator or his/her designated representative shall determine a reasonable estimate of anticipated fees and costs of the arbitrator and render a statement to each party setting forth that party's pro rata share of said fees and costs. Thereafter, each shall, within ten (10) days of receipt of said statement, deposit said sum with the arbitrator. Failure of any party to make such a deposit shall result in the forfeiture by the non-depositing party of the right to prosecute or defend the claim which is the subject of the arbitration, which shall not otherwise serve to abate, stay or suspend the arbitration proceedings.

Unless otherwise agreed in writing or otherwise provided herein, the Seller shall carry on the Work and maintain its progress during any dispute resolution proceedings, and the Buyer shall continue to make payments to the Seller in accordance with the contract documents.

Litigation. Controversies, disputes, or claims in excess of \$250,000 arising out of, in connection with, or in relation to the interpretation, performance or breach of this Proposal, including any claim based on contract, tort, or statute shall be resolved in a court of competent jurisdiction in the venue agreed to herein. The presiding judge shall determine which is the prevailing party and shall

include in the award that party's reasonable attorneys' fees and costs. The laws and venue of proceedings shall be the place of the Project.

Mediation. In the case of either arbitration or litigation, the parties agree that mediation shall be a condition precedent to any arbitration hearings or trial. The parties hereby stipulate that the arbitrator or judge shall include in any scheduling order deadlines for: (a) the appointment of a mediator; and (b) the mediation. In the event the parties are unable to agree on a mediator by the required deadline, the arbitrator or judge shall appoint a mediator. The arbitrator or judge may, at their discretion, ask for input from the parties with respect to the appointment of a mediator. The location of the mediation shall be established by the mediator.

- 3.16 Notwithstanding any other provision of this Proposal, the Seller and the Buyer waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Proposal. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with this Proposal and/or to any claims or disputes arising out of or related to this Proposal.
- 3.17 ENTIRE CONTRACT: When accepted by Buyer, this Proposal shall constitute the entire agreement between the parties. Its terms shall be controlling in the event same are inconsistent with any plans, specifications, bid invitation, purchase order, subcontract, or other instrument furnished by Buyer.

Acceptance of any offer made by BMI is expressly limited to the exact terms contained in this proposal and any attempt to alter or omit any of such terms shall be deemed an acceptance of the offer, except that any altered or omitted terms shall not be binding on BMI unless BMI has specifically agreed to such altered terms in writing.

We hope this proposal contains sufficient detail to permit your fullest evaluation. Please feel free to contact us at any time for further information.

Sincerely,



Eric L. Noegel
Manager of Project Development, Southwest Division

ELN:LL

A signed copy of this quotation will serve as acceptance and agreement by the Buyer to purchase the materials and/or services described herein.

Dated: _____ By: _____

Initial ____ / Initial ____