



Agenda Item #: _____

Staff Report

City of Manhattan Beach

TO: Honorable Mayor Ward and Members of the City Council

THROUGH: Richard Thompson, Interim City Manager

FROM: Jim Arndt, Public Works Director

DATE: July 20, 2010

SUBJECT: Consideration to Approve Award of Professional Services Agreement to MDA Johnson Favaro for \$93,135 and Linda Demmers Consulting for \$27,300 for the Los Angeles County Manhattan Beach Library Improvements

RECOMMENDATION:

Staff recommends that the City Council pass a motion to award professional service contracts to MDA Johnson Favaro in the amount of \$93,135 and authorization for the Public Works Director to approve additional work in the amount not-to-exceed \$9,313 (10% contingency) and Linda Demmers Consulting in the amount of \$27,300 and authorization for the Public Works Director to approve additional work in the amount not-to-exceed \$2,730 (10% contingency) to assist the City in the pre-design of improvements to the LA County Library in Manhattan Beach and managing oversight of the Library project. Funds will be appropriated from the City's General Funds until such time Los Angeles County releases Library reserves for their Manhattan Beach Library and reimburses the City of Manhattan Beach for these professional services.

FISCAL IMPLICATION:

The City has been in discussion with Los Angeles County regarding improvements to the Library for many years. Funding for improvements has been identified as coming from accumulated County funds received from Manhattan Beach residents' property tax collected for operations/improvements for the Library. Additional project funding will come from bonding against future tax collections and will be handled by the Los Angeles County Library.

Funds for the Library project, including the two above referenced professional services contracts will come from accumulated LAC reserves set aside for the LAC Library in Manhattan Beach. Current reserves are estimated at \$4,200,000. These funds are restricted and may be used for Library purposes only. Although private donations may be used, no additional city funding will be needed. County release of the reserves will occur this fall with the approval of a Memorandum of Understanding and Agreement between the City of Manhattan Beach and Los Angeles County. Until the approval, the City of Manhattan Beach will cover the costs of the contracts with funds from the City's General Funds and be reimbursed upon approval of the MOU and Agreement. The City will incur staff costs in the administration of the project, but no other materials, professional services, or construction costs will be incurred

BACKGROUND:

As a concluding segment to the City's Facilities Strategic Plan (FSP) in 2008, MDA Johnson Favaro provided the City with conceptual plans for a possible Library improvement at the current Library site. Improvements consisted of increasing the size of the Library from 12,000 to 22,000 S.F. Earlier this year, the Council directed Staff to restart discussions with the Library with the goal to start design process for Library improvements. Both professional service agreements start the process. In addition the City Council created a two person Council subcommittee to oversee City involvement and report back to the Council of project progress and issues. Councilpersons Portia Cohen and Nick Tell were appointed to the subcommittee and have met with LA County staff, consultants and City staff to give direction and review project progress.

DISCUSSION:

MDA Johnson Favaro

MDA Johnson Favaro has been selected to provide pre-design work on the County library given their work on the conceptual Library options performed as part of the City's Facility Strategic Plan (FSP).

Goals for the pre-design phase include:

- 1.1 **Confirm preliminary Building Program:** Identify programs and services that will best respond to the needs of the community and are consistent with the County library service model. Determine floor area requirements that will best provide for those programs and services.
- 1.2 **Compare Alternates to Confirm Feasibility:** Understand relative feasibilities, costs and benefits of alternative renovation/expansion and/or new construction scenarios. Define the scope of the building project that best delivers on the requirements of the library building program within the stipulated project budget.
- 1.3 **Develop Preliminary Building/Site Design:** Confirm placement, massing and configuration of new construction on the site. Develop design sufficient to demonstrate alignment with community goals and City design, planning and zoning standards.
- 1.4 **Confirm Project Construction Budget:** Prepare a detailed cost plan that confirms the project budget and verifies feasibility of the recommended project.
- 1.5 **Determine Project Delivery Method:** Confirm the best project delivery method for the project and identify the design and construction schedule going forward.
- 1.6 **Obtain City/County Preliminary Approvals:** Facilitate review and gain approvals at all levels of political, appointed and administrative leadership on a recommended approach, budget and schedule for the design and construction of the library.

MDA Johnson Favaro pre-design services generally include: topographic survey of site; geotechnical report; seismic review for the existing library; review proposed Pre-design concepts to confirm compliance with City General Plan and Zoning Ordinance; establish an estimate of probable construction costs; establish a program of public outreach; and make necessary public presentations of the pre-design.

MDA Johnson Favaro will deliver site plans, floor plans, conceptual structural and mechanical system layouts, building section and elevation diagrams, physical model, computer generated views, and detailed cost plans, which is necessary in order to determine cost estimates and for the County to acquire bonds for project funding.

Linda Demmers Consulting

Linda Demmers Consulting was selected to provide Library Consultant services based on her involvement with the City of Manhattan Beach and library renovations in the FSP process.

Goals include ensuring that various program options are viable and meet County standards; programs have adequate space for workstations, technology and various program elements; and determine final program size and the final building size. Consultant will work with MDA Johnson Favaro during the programming phase. The consultant will review contracts, lease or operating agreements with County Library; review various project delivery options; work on details related to schematic design phase; assist with development of furniture and equipment; determine best means of procurement and also work with County on technology requirements. Consultant will also assist in public presentations as needed; cost estimate review; and provide assistance in bid document review.

CONCLUSION:

Design options will be presented to the City Council subcommittee and then to the City Council at a study session. The Council will approve a process that will include the Library Commission, Cultural Arts, Los Angeles County, and the Planning Commission. The Planning Commission must conduct a Public Hearing and approve the Use Permit.

- Attachments: A. MDA Johnson Favaro contract
B. Linda Demmers Consulting contract

AGREEMENT

THIS AGREEMENT is made this 21st day of July, 2010, by the CITY OF MANHATTAN BEACH, a municipal corporation, ("CITY"), and MDA Johnson Favaro, an Architect, ("CONTRACTOR").

RECITALS

The following recitals are a substantive part of this Agreement:

1. City is desirous of obtaining services necessary to complete pre-design services for the Manhattan Beach branch of the Los Angeles County Library;
2. CONTRACTOR is qualified by virtue of experience, training, education, and expertise to accomplish these services.

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. Term of Agreement. This Agreement shall terminate on February 15, 2011, unless earlier terminated as provided below.

1.1 **Termination**. CITY and CONTRACTOR shall have the right to terminate this Agreement, without cause, by giving seven (7) days written notice. Upon receipt of a termination notice, CONTRACTOR shall:

- (1) promptly discontinue all services affected (unless the notice directs otherwise); and
- (2) promptly deliver all data, reports, estimates, summaries, and such other information and materials as may have been accumulated by CONTRACTOR in performing the Agreement to CITY, whether completed or in progress. CONTRACTOR shall be entitled to reasonable compensation for the services it performs up to the date of termination.

2. **Services to be Provided.** The services to be provided hereunder shall be those set forth in Exhibit "A", Scope of Work, which is attached hereto and incorporated herein by this reference.

3. **Compensation.** CONTRACTOR shall be compensated as follows:

3.1 **Amount.** Compensation under this Agreement shall not exceed **Eighty-six thousand three hundred and eighty-five dollars (\$86,385.00).**

3.2 **Payment.** For work under this Agreement, payment shall be made per monthly invoice. For extra work not a part of this Agreement, written authorization by CITY will be required, and payment shall be based on hourly rates in Exhibit "A".

3.3 **Expenses.** In addition, CONTRACTOR shall be reimbursed for costs advanced by CONTRACTOR on behalf of CITY, including delivery and messenger services, printing, copying and binding costs and out-of-state travel expenses in an amount not to exceed **Six thousand seven hundred and fifty dollars (\$6,750.00).** CONTRACTOR shall keep accurate records of all expenses. Out-of-state travel expense by CONTRACTOR shall only be paid by the CITY if approved in writing prior to the incursion of said expenses. CITY shall not pay for CONTRACTOR's in-state travel expenses. Records must be submitted to CITY along with any invoice which requests payment for the foregoing expenses.

3.4 **Funding.** CONTRACTOR acknowledges that CITY is funding this subcontract with money received from the state and federal government.

4. **Professional Standards.** CONTRACTOR shall maintain or exceed the level of competency presently maintained by other similar practitioners in the State of California, for professional and technical soundness, accuracy and adequacy of all work, advice, and materials furnished under this Agreement.

5. **Time of Performance.** CONTRACTOR shall complete all services required hereunder as and when directed by CITY as set forth in Exhibit "A". However, CITY in its sole discretion, may extend the time for performance of any service.

6. **Employees and Subcontractors.** CONTRACTOR may, at CONTRACTOR'S sole cost and expense, employ such other person(s) as may, in the opinion of CONTRACTOR, be needed to comply with the terms of this Agreement, if such person(s) possess(es) the necessary qualifications to perform such services. If such person(s) is/are employed to perform a portion of the scope of work, the engagement of such person(s) shall be subject to the prior approval of the CITY.

7. **Insurance Requirements.**

7.1 **Commencement of Work.** CONTRACTOR shall not commence work under this Agreement until it has obtained CITY approved insurance. Before beginning work hereunder, during the entire period of this Agreement, for any extensions hereto, and for periods after the end of this Agreement as indicated below, CONTRACTOR must have and maintain in place, all of the insurance coverages required in this Section 7. CONTRACTOR'S insurance shall comply with all items specified by this Agreement. Any subcontractors shall be subject to all of the requirements of this Section 7 and CONTRACTOR shall be responsible to obtain evidence of insurance from each subcontractor and provide it to CITY before the subcontractor commences work.

All insurance policies used to satisfy the requirements imposed hereunder shall be issued by insurers authorized to do business in the State of California. Insurers shall have a current A.M. Best's rating of not less than A-:VII unless otherwise approved by CITY.

7.2 **Coverages, Limits and Policy Requirements.** CONTRACTOR shall maintain the types of coverages and limits indicated below:

(1) COMMERCIAL GENERAL LIABILITY INSURANCE - a policy for occurrence coverage, including all coverages provided by and to the extent afforded by Insurance Services Office Form CG 0001 ed. 11/88 or 11/85, with no special limitations affecting CITY. The limit for all coverages under this policy shall be no less than one million dollars (\$1,000,000.00) per occurrence. CITY, its employees, officials and agents, shall be added as additional insureds by endorsement to the policy. The insurer shall agree to provide the City with thirty (30) days prior written notice of any cancellation, non-renewal or material change in coverage. The policy shall contain no provision that would make this policy excess over, contributory with, or invalidated by the existence of any insurance, self-insurance or other risk financing program maintained by CITY. In the event the policy contains such an

“other insurance” clause, the policy shall be modified by endorsement to show that it is primary for any claim arising out of the work performed under this Agreement. The City of Manhattan Beach Insurance Endorsement Form No. 1 (General Liability) must be executed by the applicable insurance underwriters.

(2) **COMMERCIAL AUTO LIABILITY INSURANCE** - a policy including all coverages provided by and to the extent afforded by Insurance Services Office form CA 0001, ed. 12/93, including Symbol 1 (any auto) with no special limitations affecting the CITY. The limit for bodily injury and property damage liability shall be no less than one million dollars (\$1,000,000) per accident. CITY, its employees, officials and agents, shall be added as additional insureds by endorsement to the policy. The insurer shall agree to provide the City with thirty (30) days prior written notice of any cancellation, non-renewal or material change in coverage. The policy shall contain no provision that would make this policy excess over, contributory with, or invalidated by the existence of any insurance, self-insurance or other risk financing program maintained by CITY. In the event the policy contains such an “other insurance” clause, the policy shall be modified by endorsement to show that it is primary for any claim arising out of the work performed under this Agreement. The City of Manhattan Beach Insurance Endorsement Form No. 2 (Auto) must be executed by the applicable insurance underwriters.

(3) **WORKERS’ COMPENSATION INSURANCE** - a policy which meets all statutory benefit requirements of the Labor Code, or other applicable law, of the State of California. The minimum coverage limits for said insurance shall be no less than one million dollars (\$1,000,000) per claim. The policy shall contain, or be endorsed to include, a waiver of subrogation in favor of CITY.

D. PROFESSIONAL ERRORS & OMISSIONS - a policy with minimum limits of five million dollars (\$5,000,000) per claim and aggregate. This policy shall be issued by an insurance company which is qualified to do business in the State of California and contain a clause that the policy may not be canceled until thirty (30) days written notice of cancellation is mailed to CITY.

7.3 Additional Requirements. The procuring of such required policies of insurance shall not be construed to limit CONTRACTOR’S liability hereunder, nor to fulfill the indemnification provisions and requirements of this Agreement. There shall be no recourse against CITY for payment of premiums or other amounts with respect thereto. CITY shall notify CONTRACTOR in writing of changes in the insurance requirements. If

CONTRACTOR does not deposit copies of acceptable insurance policies with CITY incorporating such changes within sixty (60) days of receipt of such notice, CONTRACTOR shall be deemed in default hereunder.

Any deductibles or self-insured retentions must be declared to and approved by CITY. Any deductible exceeding an amount acceptable to CITY shall be subject to the following changes:

- (1) either the insurer shall eliminate, or reduce, such deductibles or self-insured retentions with respect to CITY and its officials, employees and agents (with additional premium, if any, to be paid by CONTRACTOR) ; or
- (2) CONTRACTOR shall provide satisfactory financial guarantee for payment of losses and related investigations, claim administration, and defense expenses.

7.4 Verification of Compliance. CONTRACTOR shall furnish CITY with original endorsements effecting coverage required by this Agreement. The endorsements are to be signed by a person authorized by the insurer to bind coverage on its behalf. All endorsements are to be received and approved by CITY before work commences. Not less than fifteen (15) days prior to the expiration date of any policy of insurance required by this Agreement, CONTRACTOR shall deliver to CITY a binder or certificate of insurance with respect to each renewal policy, bearing a notation evidencing payment of the premium therefor, or accompanied by other proof of payment satisfactory to CITY.

8. **Non-Liability of Officials and Employees of the CITY.** No official or employee of CITY shall be personally liable for any default or liability under this Agreement.

9. **Non-Discrimination.** CONTRACTOR covenants there shall be no discrimination based upon race, color, creed, religion, sex, marital status, age, handicap, national origin, or ancestry, in any activity pursuant to this Agreement.

10. **Independent Contractor.** It is agreed that CONTRACTOR shall act and be an independent contractor and not an agent or employee of CITY, and shall obtain no rights to any benefits which accrue to CITY'S employees.

11. **Compliance with Law.** CONTRACTOR shall comply with all applicable laws, ordinances, codes, and regulations of the federal, state, and local government.

12. **Ownership of Work Product.** All documents or other information created, developed or received by CONTRACTOR shall, for purposes of copyright law, be deemed works made for hire for CITY by CONTRACTOR as CITY'S employee(s) for hire and shall be the sole property of CITY. CONTRACTOR shall provide CITY with copies of these items upon demand and in any event, upon termination or expiration of the term of this Agreement.

13. **Conflict of Interest and Reporting.** CONTRACTOR shall at all times avoid conflict of interest, or appearance of conflict of interest, in performance of this Agreement.

14. **Notices.** All notices shall be personally delivered or mailed to the below listed addresses. These addresses shall be used for delivery of service of process.

a. Address of CONTRACTOR is as follows:

MDA Johnson Favaro
Architecture and Urban Design
ATT: Jim Favaro
5898 Blackwelder Street, Ground Floor
Culver City, CA 90232

b. Address of CITY is as follows:

City of Manhattan Beach
1400 Highland Ave
Manhattan Beach, CA 90266

(with a copy to):

City Attorney
City of Manhattan Beach
1400 Highland Ave
Manhattan Beach, CA 90266

15. **Contractor's Proposal.** This Agreement shall include CONTRACTOR'S proposal or bid which is incorporated herein. In the event of any inconsistency between the terms of the proposal and this Agreement, this Agreement shall govern.

16. **Licenses, Permits, and Fees.** CONTRACTOR shall obtain a Manhattan Beach Business License, all permits, and licenses as may be required by this Agreement.

17. **Familiarity with Work.** By executing this Agreement, CONTRACTOR warrants that:

(1) it has investigated the work to be performed;

- (2) it has investigated the site of the work and is aware of all conditions there; and
- (3) it understands the difficulties and restrictions of the work under this Agreement. Should CONTRACTOR discover any conditions materially differing from those inherent in the work or as represented by CITY, it shall immediately inform CITY and shall not proceed, except at CONTRACTOR's risk, until written instructions are received from CITY.

18. **Time of Essence.** Time is of the essence in the performance of this Agreement.

19. **Limitations Upon Subcontracting and Assignment.** Neither this Agreement, or any portion, shall be assigned by CONTRACTOR without prior written consent of CITY.

20. **Key Person.** during the term of this Agreement CONTRACTOR shall provide the services of Steve Johnson and Jim Favaro.

20. **Authority to Execute.** The persons executing this Agreement on behalf of the parties warrant that they are duly authorized to execute this Agreement.

21. **Indemnification.** CONTRACTOR agrees to indemnify, defend, and hold harmless CITY and its elective or appointive boards, officers, agents, attorneys and employees from any and all claims, liabilities, expenses, or damages of any nature, including attorneys' fees arising out of, or in any way connected with performance of, the Agreement by CONTRACTOR, CONTRACTOR'S agents, officers, employees, subcontractors, or independent contractor(s) hired by CONTRACTOR. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by CONTRACTOR.

22. **Modification.** This Agreement constitutes the entire agreement between the parties and supersedes any other agreements, oral or written. No promises, other than those included in this Agreement, shall be valid. This Agreement may be modified only by a written agreement executed by CITY and CONTRACTOR.

23. **California Law.** This Agreement shall be construed in accordance with the laws of the State of California. Any action commenced about this Agreement shall be filed in the appropriate branch of the Los Angeles County Municipal or Superior Court.

24. **Interpretation.** This Agreement shall be interpreted as though prepared by both parties.

25. **Preservation of Agreement.** Should any provision of this Agreement be found invalid or unenforceable, the decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.

26. **Entire Agreement.** This Agreement supersedes any and all other agreements, either oral or in writing, between the parties with respect to the subject matter herein. Each party to this Agreement acknowledges that representations by any party not embodied herein, and any other agreements, statements, or promises concerning the subject matter of this Agreement, not contained in this Agreement, shall not be valid and binding. Any modification of this Agreement will be effective only if it is in writing signed by the parties. Any issue with respect to the interpretation or construction of this Agreement are to be resolved without resorting to the presumption that ambiguities should be construed against the drafter.

27. **Attorneys' Fees.** In the event that legal action is necessary to enforce the provisions of the Agreement, or to declare the rights of the parties hereunder, the parties agree that the prevailing party in the legal action shall be entitled to recover attorneys' fees and court costs from the opposing party.

IN WITNESS THEREOF, the parties hereto have executed this Agreement on the day and year first shown above.

CONTRACTOR

By

CITY OF MANHATTAN BEACH

By

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

Exhibit A: Library Pre-Design Scope of Work

1.0 SCOPE OF WORK

The existing Los Angeles County Manhattan Beach Branch Library is 12,200 SF. In 2008, as a part of the Facilities Strategic Plan process, a feasibility study was completed to explore a range of options for renovation and expansion of the existing library. At that time City Council approved the preliminary option to renovate and expand the existing library to a total of 22,000 SF on two floors at an estimated construction cost of \$11.5M (Total Project Cost: \$14.8M). The County of Los Angeles Public Library (County) operates the library and owns the land occupied by the existing library and the proposed addition.

Pre-Design Phase Goals:

- 1.1 **Confirm preliminary Building Program:** Identify programs and services that will best respond to the needs of the community and are consistent with the County library service model. Determine floor area requirements that will best provide for those programs and services.
- 1.2 **Compare Alternates to Confirm Feasibility:** Understand relative feasibilities, costs and benefits of alternative renovation/expansion and/or new construction scenarios. Define the scope of the building project that best delivers on the requirements of the library building program within the stipulated project budget.
- 1.3 **Develop Preliminary Building/Site Design:** Confirm placement, massing and configuration of new construction on the site. Develop design sufficient to demonstrate alignment with community goals and City design, planning and zoning standards.
- 1.4 **Confirm Project Construction Budget:** Prepare a detailed cost plan that confirms the project budget and verifies feasibility of the recommended project.
- 1.5 **Determine Project Delivery Method:** Confirm the best project delivery method for the project and identify the design and construction schedule going forward.
- 1.6 **Obtain City/County Preliminary Approvals:** Facilitate review and gain approvals at all levels of political, appointed and administrative leadership on a recommended approach, budget and schedule for the design and construction of the library.

2.0 PRE-DESIGN SERVICES

The Pre-Design Services to be provided by the Consultant generally are described below:

- 2.1 The Consultant shall prepare a detailed topographic survey of the proposed site. The survey will include research of public records at Los Angeles County Department of Public Works and the City of Manhattan Beach; an onsite field survey to locate all structures, buildings and other man-made objects and important natural features; spot elevations related to a city bench mark system; building floor elevations; contours at 1 foot intervals (typical); location and type of all observable utilities; existing street conditions; location and size of trees with 6 in. or greater diameters; roof ridge lines; property lines shown are of record information only; any easements or other restrictions will be shown based on a title package provided by the City including a recent title policy and all supporting documents. The Consultant will deliver to the City (2) wet stamped and signed copies of the final survey as well as digital formats.
- 2.2 The Consultant shall prepare a geotechnical report for the subject site identifying existing soils conditions and requirements for building foundation design.
- 2.3 The Consultant shall review structural drawings for the existing library to assess seismic safety of the existing structure. The Consultant will establish the original seismic design base shear and compare it with the 2007 CBC requirement in order to identify required mitigation if any. Structural observation includes visual review of the existing building through readily accessible and visible areas. No destructive or non-destructive material testing will be performed with this study.
- 2.4 The Consultant shall review the existing library building and prepare an overview of Mechanical, Electrical and Plumbing systems so as to identify general concepts for required replacement or repair of existing systems in order to meet current energy efficiency standards or 2007 Fire/Life Safety code requirements.
- 2.5 The Consultant shall update existing condition plans and site sections to reflect the survey.
- 2.6 The Consultant shall review with the County Library, the City and the City's Library Consultant the proposed library programs, services and the draft Preliminary Building Program. The City's Library Consultant will update the draft Preliminary Building Program and prepare a Final Building Program to include floor area requirements, equipment and furnishing requirements and program adjacencies which will become the Basis of Design for the Pre-Design Phase. The City's Library Consultant is under separate contract with the City.
- 2.7 In cooperation with the City and the County, the Consultant shall prepare documents (Pre-Design Documents) illustrating alternate design concepts for the purpose of confirming project scope and budget. See Deliverables below.
- 2.8 The Consultant shall confirm off-site utility requirements with utility providers.
- 2.9 The Consultant shall review the proposed Pre-Design concepts with the City Planning Division to confirm compliance with the General Plan, Zoning

Ordinance and Local Coastal Program and to identify off-site project requirements such as street dedication or off-site traffic controls that may be required.

- 2.10 The Consultant shall meet with officials from the Los Angeles County Building and Safety Division, the Manhattan Beach Fire Department and the County Health Department to review preliminary plans of the proposed project.
- 2.11 The City has established a Construction Budget. The Consultant shall use its expertise and experience to establish an estimate of probable construction costs (Estimated Project Construction Cost) in a format acceptable to the City. All cost estimates will be reconciled with a City/Project Management Cost Estimate. The City shall prepare, at the City's discretion and at its own expense, independent estimates of probable cost.
- 2.12 The Consultant shall meet with City and County Library and County Public Works staff as required to confirm project requirements, review Pre-Design progress and review options for project delivery.
- 2.13 The Consultant shall meet with Library Stakeholders as required to advance the design. See Program of Outreach below.
- 2.14 The Consultant shall make presentations of the Pre-Design documents to and obtain approval from the Library Commission, the Planning Commission and City Council.

3.0 PROGRAM OF OUTREACH

The Consultant has identified the following parties as participants in the Pre-Design Process. The Consultant will facilitate a structured outreach process for soliciting input and reviewing design progress with these parties.

- 3.1 Library Subcommittee
- 3.2 Manhattan Beach City Council
- 3.3 Planning Commission
- 3.4 Public Works Director and Community Development Director
- 3.5 County of Los Angeles Public Works administration and staff
- 3.6 Manhattan Beach Branch Library Director and staff

It is anticipated the Pre-Design Phase will commence July 21 and be completed December 1 for a total overall duration of five months. Adoption of the recommendations of the Pre-Design Phase by the City Council will constitute its completion. The table below identifies the anticipated Program of Outreach.

PROGRAM OF OUTREACH

<i>Party</i>	<i>July</i>	<i>August</i>	<i>September</i>	<i>October</i>	<i>November</i>	<i>Subtotals</i>
Library subcommittee	•	•	•	•		<u>4</u>
Planning Commission				•		<u>1</u>
Interim City Council presentation			•			<u>1</u>
Public Works Director	•	•	•	•	•	<u>5</u>
Community Dev. Director			•			<u>1</u>
County library staff	•		•			<u>2</u>
County facilities staff			•			<u>1</u>
Branch library staff	•	•	•	•		<u>4</u>
Community Meeting				•		<u>1</u>
Final City Council presentation					•	<u>1</u>
<i>Subtotals</i>	<u>4</u>	<u>3</u>	<u>7</u>	<u>5</u>	<u>2</u>	<u>21</u>

Meetings with parties not included in the pre-design program of outreach will require an additional services addendum to this agreement. Parties not identified in the pre-design program of outreach include (but are not limited to):

- 3.7 City council members (individually or in pairs)
- 3.8 Library commission
- 3.9 City manager and/or other city staff
- 3.10 Friends of the library
- 3.11 Library fundraising committee
- 3.12 Downtown residents and/or business
- 3.13 Seniors

4.0 CONSULTANT TEAM

The Consultant shall consult with the following specialists during the Pre-Design Phase. The fees for the following Consultants are included in this scope of work.

- 4.1 Geotechnical
- 4.2 Survey
- 4.3 Civil
- 4.4 Structural
- 4.5 Mechanical/Electrical/Plumbing
- 4.6 Information Technology
- 4.7 Code
- 4.8 Cost Estimation
- 4.9 Food Service
- 4.10 Sustainability

5.0 DELIVERABLES

Throughout the Pre-Design Phase the design team will generate as many diagrams, drawings, models and views of alternative programming, planning and design approaches as necessary and within reason to achieve satisfaction on the part of everyone involved that all options have been explored. The design team will provide a comprehensive final report including narratives, charts, diagrams, drawings and model photographs that document in detail the findings of the Pre-Design phase. Final drawings and documents will include:

- 5.1 Site Plan (Minimum 1"=16')
- 5.2 Program Distribution Diagrams
- 5.3 Floor Plan Diagrams (1/8" = 1')
- 5.4 Conceptual structural system layout and description
- 5.5 Conceptual mechanical systems layout and description
- 5.6 Building section diagrams (minimum 1/8"=1'-0")
- 5.7 Building elevation diagrams (minimum 1/8"=1'-0")
- 5.8 Physical model (minimum 1"=16')
- 5.9 Computer generated 3D massing model
- 5.10 Computer generated views (2)
- 5.11 Detailed cost plan
- 5.12 Descriptive narratives

6.0 BASIS OF COMPENSATION

Based on the Project Description and Scope of Services defined above, MDA Johnson Favaro and its consulting team propose a Consultant Team Total Fee including fee and reimbursables of ***Ninety-three thousand one hundred and thirty-five dollars (\$93,135.00)*** Reimbursables

are estimated at *Six Thousand Seven Hundred and Fifty dollars (\$6,750.00)*. The fee will be billed monthly in proportion to the work completed.

A & E PROFESSIONAL SERVICES FEES			
	Fee	Reimbursables	Total
Pre Design Phase (A & E)	\$74,700	\$6,500	\$81,200
Pre Design Phase (Survey & Geotechnical Report)	\$11,685	\$250	\$11,935
TOTAL	\$86,385	\$6,750	\$93,135

7.0 REIMBURSABLES

The City shall reimburse the Consultant a sum for its reasonable out-of-pocket expenses that are incurred and paid for by the Consultant in furtherance of performance of its obligations under this agreement. Reimbursables are included in the Fee for Basic/Authorized Additional Services. The categories of expenses include:

- 7.1 Printing and reproduction costs
- 7.2 Shipping, overnight mail, postage, messenger and other handling of drawings and documents.
- 7.3 Long distance telephone calls outside of the 213, 310, 626, 323, and 909 area codes.
- 7.4 Renderings and special presentation models requested by the Client.
- 7.5 Additional Consultants not considered a part of Pre-Design Services
- 7.6 Fees paid to third parties for securing approval of authorities having jurisdiction over the project.

8.0 GENERAL REQUIREMENTS

- 8.1 The City and/or County may be requested to supply the Consultant with the necessary information to determine the proper location of all improvements on and off site, including existing record drawings in the City's or County's possession. The Consultant will make a good-faith effort to verify the accuracy of such information by means of a thorough visual survey of site conditions.
- 8.2 The City shall also make a good-faith effort to verify the accuracy of the existing record drawings and provide any supplemental information to the Consultant which may not be shown on the existing record drawings. The Consultant shall not be responsible for the accuracy of the information or existing record drawings, except to the extent that any inaccuracy should have reasonably been detected by the Consultant, pursuant to its standard of care and visual observation of existing conditions.

- 8.3 The Consultant and the Consultant’s consultants shall have no responsibility for the discovery, presence, handling, removal, or disposal of or exposure to hazardous materials or toxic substances in any form at the Project site. The City’s responsibilities shall include retaining consultant(s) to conduct materials testing and inspection or to conduct any other environmental or hazardous materials testing and inspection pursuant to any other applicable laws, rules or regulations.
- 8.4 The City will provide the services of a Library Consultant.

9.0 AUTHORIZED ADDITIONAL SERVICES

- 9.1 Additional Services shall be provided if authorized or confirmed in writing by the City. Additional Services will be billed on an hourly basis at the rates shown below.
- 9.2 The Consultant shall bill as Additional Services all work that is the result of a substantial change directed by the Client, that necessitates going back to, or repeating a part of or the entirety of any phase already approved and complete. Preparation of documents, applications, and/or other time spent on obtaining variances, or easement adjustments shall be billed as Additional Services.
- 9.3 Additional Services may be authorized by the City. If authorized, such Additional Services and Reimbursable Expenses associated with the Additional Services will be compensated at the rates and in the manner set forth in “Basis of Compensation” below, unless a flat rate or some other form of compensation is mutually agreed upon by the parties.
- 9.4 Additional Services mean 1) any work or Services which is determined by the City to be necessary for the proper completion of the Project, but which the parties did not reasonably anticipate would be necessary for the Consultant to perform at the execution of this Agreement; 2) revisions in Drawings or other documents when such revisions are caused by conflicts to previously issued instructions of the City or County.

Partner	\$180.00/hour
Senior Associate 2	\$115.00/hour
Senior Associate 1	\$100.00/hour
Project Architect 2	\$ 75.00/hour
Project Architect 1	\$ 70.00/hour
Intermediate Staff 2	\$ 65.00/hour
Intermediate Staff 1	\$ 55.00/hour
Tech/Admin Staff 2	\$ 50.00/hour
Tech/Admin Staff 1	\$ 45.00/hour

AGREEMENT

THIS AGREEMENT is made this 20th day of July, 2010, by the CITY OF MANHATTAN BEACH, a municipal corporation, ("CITY"), and Linda Demmers a library facility planning consultant, ("CONTRACTOR").

RECITALS

The following recitals are a substantive part of this Agreement:

1. City is desirous of obtaining services necessary to program services and collections and assist in the design of a renovation of and remodel to its existing County Library branch.
2. CONTRACTOR is qualified by virtue of experience, training, education, and expertise to accomplish these services.

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Term of Agreement.** This Agreement shall terminate on June 30, 2012, unless earlier terminated as provided below.

1.1 **Termination.** CITY and CONTRACTOR shall have the right to terminate this Agreement, without cause, by giving thirty (30) days written notice. Upon receipt of a termination notice, CONTRACTOR shall:

- (1) promptly discontinue all services affected (unless the notice directs otherwise); and
- (2) promptly deliver all data, reports, estimates, summaries, and such other information and materials as may have been accumulated by CONTRACTOR in performing the Agreement to CITY, whether completed or in progress. CONTRACTOR shall be entitled to reasonable compensation for the services it performs up to the date of termination.

2. **Services to be Provided.** The services to be performed by CONTRACTOR shall consist of those contained in Exhibit A Scope of Work.

3. **Compensation.** CONTRACTOR shall be compensated as follows:

3.1 **Amount.** Compensation under this Agreement shall not exceed twenty seven thousand dollars (\$27,300.00).

3.2 Payment. For work under this Agreement, payment shall be made per monthly invoice. For extra work not a part of this Agreement, written authorization by CITY will be required, payment shall be made at an hourly rate of \$125.00

3.3 Expenses. CONTRACTOR shall be entitled to additional compensation for expenses for which there are accurate records, such expenses shall include items such as printing, copying, delivery, and mileage to and from meetings.

4. **Professional Standards**. CONTRACTOR shall maintain or exceed the level of competency presently maintained by other similar practitioners in the State of California, for professional and technical soundness, accuracy and adequacy of all work, advice, and materials furnished under this Agreement.

5. **Time of Performance**. CONTRACTOR shall complete all services required hereunder as and when directed by CITY as set forth in Exhibit A. However, CITY in its sole discretion, may extend the time for performance of any service.

6. **Employees and Subcontractors**. CONTRACTOR may, at CONTRACTOR'S sole cost and expense, employ such other person(s) as may, in the opinion of CONTRACTOR, be needed to comply with the terms of this Agreement, if such person(s) possess(es) the necessary qualifications to perform such services. If such person(s) is/are employed to perform a portion of the scope of work, the engagement of such person(s) shall be subject to the prior approval of the CITY.

7. **Insurance Requirements**.

7.1 Commencement of Work. CONTRACTOR shall not commence work under this Agreement until it has obtained CITY approved insurance. Before beginning work hereunder, during the entire period of this Agreement, for any extensions hereto, and for periods after the end of this Agreement as indicated below, CONTRACTOR must have and maintain in place, all of the insurance coverages required in this Section 7. CONTRACTOR'S insurance shall comply with all items specified by this Agreement. Any subcontractors shall be subject to all of the requirements of this Section 7 and CONTRACTOR shall be responsible to obtain evidence of insurance from each subcontractor and provide it to CITY before the subcontractor commences work.

All insurance policies used to satisfy the requirements imposed hereunder shall be issued by insurers authorized to do business in the State of California. Insurers shall have a current A.M. Best's rating of not less

than A-VII unless otherwise approved by CITY.

7.2 Coverages, Limits and Policy Requirements. CONTRACTOR shall maintain the types of coverages and limits indicated below:

(1) COMMERCIAL GENERAL LIABILITY INSURANCE - a policy for occurrence coverage, including all coverages provided by and to the extent afforded by Insurance Services Office Form CG 0001 ed. 11/88 or 11/85, with no special limitations affecting CITY. The limit for all coverages under this policy shall be no less than one million dollars (\$1,000,000.00) per occurrence. CITY, its employees, officials and agents, shall be added as additional insureds by endorsement to the policy. The insurer shall agree to provide the City with thirty (30) days prior written notice of any cancellation, non-renewal or material change in coverage. The policy shall contain no provision that would make this policy excess over, contributory with, or invalidated by the existence of any insurance, self-insurance or other risk financing program maintained by CITY. In the event the policy contains such an "other insurance" clause, the policy shall be modified by endorsement to show that it is primary for any claim arising out of the work performed under this Agreement. The City of Manhattan Beach Insurance Endorsement Form No. 1 (General Liability) must be executed by the applicable insurance underwriters.

(2) AUTO LIABILITY INSURANCE - a policy including all coverages provided by and to the extent afforded by Insurance Services Office form CA 0001, ed. 12/93, including Symbol 1 (any auto) with no special limitations affecting the CITY. The limit for bodily injury and property damage liability shall be no less than one million dollars (\$1,000,000) per accident. CITY, its employees, officials and agents, shall be added as additional insureds by endorsement to the policy. The insurer shall agree to provide the City with thirty (30) days prior written notice of any cancellation, non-renewal or material change in coverage. The policy shall contain no provision that would make this policy excess over, contributory with, or invalidated by the existence of any insurance, self-insurance or other risk financing program maintained by CITY. In the event the policy contains such an "other insurance" clause, the policy shall be modified by endorsement to show that it is primary for any claim arising out of the work performed under this Agreement. The City of Manhattan Beach Insurance Endorsement Form No. 2 (Auto) must be executed by the applicable insurance underwriters.

7.3 Additional Requirements. The procuring of such required policies of insurance shall not be construed to limit CONTRACTOR'S liability hereunder, nor to fulfill the indemnification provisions and requirements of this Agreement. There shall be no recourse against CITY for payment of premiums or other amounts with respect thereto. CITY shall notify CONTRACTOR in writing of changes in the insurance requirements. If CONTRACTOR does not deposit copies of acceptable insurance policies with CITY incorporating such changes within sixty (60) days of receipt of such notice, CONTRACTOR shall be deemed in default hereunder.

Any deductibles or self-insured retentions must be declared to and approved by CITY. Any deductible exceeding an amount acceptable to CITY shall be subject to the following changes:

- (1) either the insurer shall eliminate, or reduce, such deductibles or self-insured retentions with respect to CITY and its officials, employees and agents (with additional premium, if any, to be paid by CONTRACTOR) ; or
- (2) CONTRACTOR shall provide satisfactory financial guarantee for payment of losses and related investigations, claim administration, and defense expenses.

7.4 Verification of Compliance. CONTRACTOR shall furnish CITY with original endorsements effecting coverage required by this Agreement. The endorsements are to be signed by a person authorized by the insurer to bind coverage on its behalf. All endorsements are to be received and approved by CITY before work commences. Not less than fifteen (15) days prior to the expiration date of any policy of insurance required by this Agreement, CONTRACTOR shall deliver to CITY a binder or certificate of insurance with respect to each renewal policy, bearing a notation evidencing payment of the premium therefore, or accompanied by other proof of payment satisfactory to CITY.

8. **Non-Liability of Officials and Employees of the CITY.** No official or employee of CITY shall be personally liable for any default or liability under this Agreement.

9. **Non-Discrimination.** CONTRACTOR covenants there shall be no discrimination based upon race, color, creed, religion, sex, marital status, age, handicap, national origin, or ancestry, in any activity pursuant to this Agreement.

10. **Independent Contractor.** It is agreed that CONTRACTOR shall act and be an independent contractor and not an agent or employee of CITY, and shall obtain no rights to any benefits which accrue to CITY'S employees.

11. **Compliance with Law.** CONTRACTOR shall comply with all applicable laws, ordinances, codes, and regulations of the federal, state, and local government.

12. **Ownership of Work Product.** All documents or other information created, developed or received by CONTRACTOR shall, for purposes of copyright law, be deemed works made for hire for CITY by CONTRACTOR as CITY'S employee(s) for hire and shall be the sole property of CITY. CONTRACTOR shall provide CITY with copies of these items upon demand and in any event, upon termination or expiration of the term of this Agreement.

13. **Conflict of Interest and Reporting.** CONTRACTOR shall at all times avoid conflict of interest, or appearance of conflict of interest, in performance of this Agreement.

14. **Notices.** All notices shall be personally delivered or mailed to the below listed addresses. These addresses shall be used for delivery of service of process.

a. Address of CONTRACTOR is as follows:

Linda Demmers
2414 Chislehurst Drive
Los Angeles, California 90027

b. Address of CITY is as follows:

City of Manhattan Beach
1400 Highland Ave
Manhattan Beach, CA 90266

(with a copy to):

City Attorney
City of Manhattan Beach
1400 Highland Ave
Manhattan Beach, CA 90266

15. **Contractor's Proposal.** This Agreement shall include CONTRACTOR'S proposal or bid which is incorporated herein. In the event of any inconsistency between the terms of the proposal and this Agreement, this Agreement shall govern.

16. **Licenses, Permits, and Fees.** CONTRACTOR shall obtain a Manhattan Beach Business License, all permits, and licenses as may be required by this Agreement.

17. **Familiarity with Work.** By executing this Agreement, CONTRACTOR warrants that:

- (1) it has investigated the work to be performed;
- (2) it has investigated the site of the work and is aware of all conditions there; and
- (3) it understands the difficulties and restrictions of the work under this Agreement. Should CONTRACTOR discover any conditions materially differing from those inherent in the work or as represented by CITY, it shall immediately inform CITY and shall not proceed, except at CONTRACTOR's risk, until written instructions are received from CITY.

18. **Time of Essence.** Time is of the essence in the performance of this Agreement.

19. **Limitations Upon Subcontracting and Assignment.** Neither this Agreement, or any portion, shall be assigned by CONTRACTOR without prior written consent of CITY.

20. **Authority to Execute.** The persons executing this Agreement on behalf of the parties warrant that they are duly authorized to execute this Agreement.

21. **Indemnification.** CONTRACTOR agrees to indemnify, defend, and hold harmless CITY and its elective or appointive boards, officers, agents, attorneys and employees from any and all claims, liabilities, expenses, or damages of any nature, including attorneys' fees arising out of, or in any way connected with performance of, the Agreement by CONTRACTOR, CONTRACTOR'S agents, officers, employees, subcontractors, or independent contractor(s) hired by CONTRACTOR. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by CONTRACTOR.

22. **Modification.** This Agreement constitutes the entire agreement between the parties and supersedes any other agreements, oral or written. No promises, other than those included in this Agreement, shall be valid. This Agreement may be modified only by a written agreement executed by CITY and CONTRACTOR.

23. **California Law.** This Agreement shall be construed in accordance with the laws of the State of California. Any action commenced about this Agreement shall be filed in the appropriate branch of the Los Angeles County Municipal or Superior Court.

24. **Interpretation**. This Agreement shall be interpreted as though prepared by both parties.

25. **Preservation of Agreement**. Should any provision of this Agreement be found invalid or unenforceable, the decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.

26. **Entire Agreement**. This Agreement supersedes any and all other agreements, either oral or in writing, between the parties with respect to the subject matter herein. Each party to this Agreement acknowledges that representations by any party not embodied herein, and any other agreements, statements, or promises concerning the subject matter of this Agreement, not contained in this Agreement, shall not be valid and binding. Any modification of this Agreement will be effective only if it is in writing signed by the parties. Any issue with respect to the interpretation or construction of this Agreement are to be resolved without resorting to the presumption that ambiguities should be construed against the drafter.

27. **Attorneys' Fees**. In the event that legal action is necessary to enforce the provisions of the Agreement, or to declare the rights of the parties hereunder, the parties agree that the prevailing party in the legal action shall be entitled to recover attorneys' fees and court costs from the opposing party.

IN WITNESS THEREOF, the parties hereto have executed this Agreement on the day and year first shown above.

CONTRACTOR

By

CITY OF MANHATTAN BEACH

By

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

Exhibit A: Library Consultant Scope of Work

Task 1: **BUILDING PROGRAM.** Various and numerous program options developed to date will be tested to ensure they are viable and meet current County standards and practices. The following elements will be validated: collection sizes, staff workstations, technology needs, and quantities for various program elements; i.e., seats in the meeting room, number of magazine subscriptions, service desks, size of story time area, print stations, etc. Program content will be reviewed with County Library personnel as well as with the Library Commission (recommended) and other constituents as required. The final program size should be determined before this effort is completed and the final building size may be based on what the site will allow or the funds available or a combination of the two. Consultant will work with Johnson Favaro during the programming phase and will present the final program to the design team as they begin conceptual design phase of project.

Consultant will recommend one or two focus groups during this phase for specific areas of the building; i.e., preschool area and teen area.

Total: 40 hours

Task 2: Provide **ADDITIONAL SERVICES** to City as required, including review of contracts with design team, lease or operating agreements with County Library, and review of various project delivery options. As needed.

Total: 10 hours

Task 3: Coordinate with design team on **CONCEPTUAL DESIGN**, again working with Library planning work group and as a liaison to County Library. Verify space allocation to specific program elements and adjacency requirements to validate program content at end of conceptual design phase. Assist design team in any presentations during this phase, included, but not limited to, County Library, Manhattan Beach Library Commission, City Council or Library Working Group.

Total: 20 hours

Task 4: **SCHEMATIC DESIGN.** Work with design team on details related to schematic design phase. Continuation of Conceptual Design tasks with greater level of detail. Review SD with County Library staff.

Total: 25 hours

Task 5: Assist with the development of **FURNITURE AND EQUIPMENT**, and shelving budget and program. Work with City and County Library to determine best means of

procurement. Assist design team on selection and presentation of furniture. Work with County Library and City on technology requirements.

Total: 40 hours

Task 6: Draft shelving specifications and schedule. Review with County Library. Work with design team on **DESIGN DEVELOPMENT** phase of project including, but limited to review of power and data, low voltage requirements, finish materials, disabled access, casework details, security and supervision issues, acoustics, lighting and light control requirements. Work with technical specialists as needed. Continue work on interior finish materials and furniture and equipment. Assist in presentations to Library Commission and County Library. Review signage location, terminology and type for consistency with CoLAPL requirements.

Total: 40 hours

Task 7: As needed: public presentation, assistance with planning temporary relocation, cost estimate review, participation in value engineering if required, assistance in bid document review, CM interview, fundraising, etc.

Total: 25 hours

General: Project Administration

Total: 10 hours

Project Total: 210 hours

Hourly rate: \$125.00

Total proposed fee: \$26,250

Expenses not-to-exceed: \$1,050

Total proposed scope offered at \$27,300.