



Agenda Item #: _____

Staff Report

City of Manhattan Beach

TO: Honorable Mayor Montgomery and Members of the City Council

THROUGH: Richard Thompson, Interim City Manager

FROM: Jim Arndt, Director of Public Works
Robert Wadden, City Attorney

DATE: December 7, 2010

SUBJECT: Consideration to Approve Los Angeles County Library MOU and Agreement Covering Use of Set-Aside Funds through Pre-Design for Library Modifications

RECOMMENDATION:

Staff recommends that the City Council approve the attached Memorandum of Understanding (MOU) and Agreement that covers Professional Services up through the Pre-Design portion of the modifications to the Los Angeles County Library located in Manhattan Beach.

FISCAL IMPLICATION:

There are currently over \$4,000,000 in set-aside funds earmarked for modifications for the Library. These funds may be used to obtain Professional Services for the Pre-Design element of the Library modifications. These funds are restricted and may be used for Library purposes only. County release of the reserves will occur with the approval of this Memorandum of Understanding and Agreement between the City of Manhattan Beach and Los Angeles County.

The City of Manhattan Beach agreed to cover the costs of the contracts with funds from the City's General Funds (July 20, 2010 Manhattan Beach City Council meeting) until the MOU/Agreements were executed.

BACKGROUND:

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.

County release of the reserves will occur with the approval of the attached 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 of Manhattan Beach agreed to cover the costs of the contracts with funds from the City's

General Funds (July 20, 2010 Manhattan Beach City Council meeting) until the MOU/Agreements were executed. The City will incur staff costs in the administration of the project, but no other materials, professional services, or construction costs will be incurred.

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 square feet. Earlier this year, the City Council directed Staff to restart discussions with the Library with the goal to start design process for Library improvements. With the hiring of both Johnson Favaro and Linda Demmers (July 20, 2010 City Council meeting), the City has been proceeding with pre-design efforts in library modifications. In addition the City Council created a two-person City Council subcommittee to oversee City involvement and report back to the City Council on 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 as well as review the MOU and Agreement presented herein.

DISCUSSION:

The MOU defines the term "set aside funds" as the annual surplus of funds from the 2.45% of ad valorem property tax revenues dedicated to library services after deducting expenditure of costs of providing library services to Manhattan Beach residents.

The Agreement clearly establishes the current accrued balance of set aside funds as \$4,284,000. It does not guarantee that there will be any future set aside funds in any given year. The County also reserves the right in a "financial emergency" to reduce library funding and, in effect, divert set aside funds to some other non-library related purpose. The term "financial emergency" is not defined.

The MOU makes the City responsible for the pre-design phase and the County responsible for the design phase. All of the costs of pre-design, design construction and furnishing are to be paid by the County "primarily" from set aside funds (or bond funding with debt service paid for by future set aside funds). This does not bind the County to use set aside funds but it does make the County solely responsible for payment. There is a provision which permits the City to contribute funds but nothing in this agreement mandates that the City must provide any funding at all, even if set aside funds are inadequate or unavailable.

If the City were to decide to leave the County system the County would retain control of unspent accrued set aside funds.

Nothing in this Agreement makes the City a guarantor of any liability incurred by the County, the City's only direct obligation is the pre-design phase. The Agreement makes the County responsible for costs if the set aside funds are exhausted and/or no future set aside funds are available. The City is therefore not incurring any contingent liability with this MOU.

- Attachment:
1. Memorandum of Understanding
 2. Agreement
 3. July 20, 2010 City Council minutes



MEMORANDUM OF UNDERSTANDING
BETWEEN
THE COUNTY OF LOS ANGELES
AND
THE CITY OF MANHATTAN BEACH
FOR THE MANHATTAN BEACH LIBRARY

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE COUNTY OF LOS ANGELES AND
THE CITY OF MANHATTAN BEACH**

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**MEMORANDUM OF UNDERSTANDING
BETWEEN THE COUNTY OF LOS ANGELES AND
THE CITY OF MANHATTAN BEACH**

This MEMORANDUM OF UNDERSTANDING (hereinafter "MOU") is entered into as of the _____ day of _____, 2010, by and between the **COUNTY OF LOS ANGELES**, a body corporate and politic and a political subdivision of the State of California, (hereinafter "County"), and the **CITY OF MANHATTAN BEACH**, a municipal corporation, (hereinafter "City").

RECITALS

WHEREAS, the County of Los Angeles Public Library (hereinafter "County Library") operates the Manhattan Beach Library, located at 1320 Highland Avenue in the City of Manhattan Beach; and

WHEREAS, the County Library and City desire an improved library facility and enhanced services for everyone who uses the facility; and

WHEREAS, the County Library and the City both wish for the City to remain within the County Library System; and

WHEREAS, the County Library and the City recognize that it is necessary to develop a building program and conduct a pre-design study to determine whether improvements to the library should be in a form of an expansion to the existing building or replacement of the facility and financing options for mutual consideration by the County Library and City; and

WHEREAS, the County Library and the City both recognize that a majority of the property taxes paid by City property owners reserved for the County Library System are actually used to fund the operations of the Manhattan Beach Library; but that over the past several years, the amount of such property taxes collected from the City property owners, has exceeded the operating costs of the facility; and

WHEREAS, County Library and City both believe that these excess funds should primarily be used to implement the recommendations made in the City's 2008 Facility Strategic Plan, which will accomplish the mutually desired improvement in the facility and services of the Manhattan Beach Library; and

WHEREAS, the County Library and the City will mutually determine the level of library service to be provided to the City on an annual basis.

NOW, THEREFORE, in consideration of the foregoing and of the promises and covenants set forth herein, the parties agree as follows:

1. SERVICE LEVELS

- A. The County Library operates the Manhattan Beach Library that currently provides reference services, public access Internet computers, WiFi and children's and young adult programming including regularly scheduled toddler and preschool storytimes. The County Library currently conducts routine maintenance and repair of the library facilities including janitorial upkeep, landscaping/groundskeeping; and technological systems (telephones, internet connections etc.) for the library.
- B. The County Library and City shall meet on an annual basis to determine the service levels for the operation of the Manhattan Beach Library based on available revenue. In the event that the costs of service for the library located within the City exceed the available property tax revenue, the County Library and City will mutually determine any service level reductions that may be necessary. However, the City may elect to fund any costs that exceed available revenue to either maintain current service levels or enhance service levels. County Library and City shall mutually agree upon a schedule of invoicing for any financial contributions made by the City to maintain or enhance library services provided by the County Library to the City.

2. SET ASIDE FUNDS

- A. Currently, approximately 2.45% of the ad valorem property tax revenue generated from property located within the City is reserved for the support of the County Free Library System in accordance with the provisions of Article 2 (commencing with Section 96) of Chapter 6 of Part 0.5 of Division 1 of the Revenue and Taxation Code.
- B. For purposes of this MOU, "Set Aside Funds" shall refer to the yearly difference in the amount of property tax received from City property owners and reserved for the County Library, and the cost of providing Library services at the Manhattan Beach Library.
- C. In each fiscal year since 2006-07, County Library has placed Set Aside Funds in a separate budgetary fund with the intent of improving the library facilities and providing more enhanced services and programs at the library. The parties agree that the current amount of Set Aside Funds accumulated is \$4,284,000. The parties mutually acknowledge that the amount of Set Aside Funds varies from year to year and will continue to do so in the future.
- D. Absent extraordinary circumstances the County Library shall, for the duration of this MOU, continue to place Set Aside Funds in a separate fund within the County Library's budget. However the parties acknowledge that in case of a countywide fiscal emergency, the County may, after notice to the City,

discontinue placing Set Aside Funds in the separate fund. The parties acknowledge that a countywide fiscal emergency would necessitate a reduction in funding for all branches of the County Library. County therefore agrees that any reduction in Set Aside Funds made in response to a countywide fiscal emergency under this section shall be made fairly and in a manner consistent with reductions at other County Library branches.

- E. All Set Aside Funds currently in the separate account, and those which will be placed in the separate account during the pendency of this MOU, will be used solely to improve library facilities and services within the City unless this MOU is unilaterally terminated by one of the parties before expiration. The provisions of this section shall survive the natural expiration of this MOU and shall continue in effect until all Set Aside Funds so accrued have been spent in accordance with the process established in Section 10, *infra*. However, if this MOU is terminated, any unexpended Set Aside Funds remaining in the separate account shall be spent in accordance with Section 24 *infra*.
- F. The parties agree that any facility, furnishings, equipment and collection improvements purchased with Set Aside Funds for the library shall remain the property of the County Library.

3. SET ASIDE FUND EXPENDITURES

- A. Set Aside Funds may be used for both one-time improvements such as capital improvements and materials purchases, and for on-going service enhancements at the library (such as increased Library hours on Sunday or increased staffing levels or additional programs), and for additional needs as mutually agreed.
- B. The City and County Library, for the duration of this MOU, shall meet in November of each year to discuss the use of Set Aside Funds in the fiscal year beginning on the following July 1. No less than four weeks before each of the required November meetings, the City Council of City shall take formal action to approve a prioritized list of issues to be discussed at the yearly meeting. If the City Council fails to approve such a list, the County Library shall assume that City issues and priorities remain unchanged from the most recent previously approved list provided by the City. The purpose of these meetings is to reach agreement on an expenditure program for the Set Aside Funds in the next fiscal year; however, these meetings are advisory in nature and nothing in this section is intended to divest the County Library, or the County of Los Angeles, of any authority to control or use Set Aside Funds. This section shall not be construed as a limit to the frequency of meetings between the parties and the parties hereby express a willingness to meet as frequently as necessary to resolve issues related to Set Aside Funds or the library services. The provisions of this section shall survive the natural expiration of this MOU and shall continue in effect so long as Set Aside Funds

are required by any provision of this MOU to be spent on improving the library facilities and providing more enhanced services and programs at the library.

- C. It is anticipated that the City will be primarily responsible for the pre-design phase of the new and/or expanded library facility project, and that the County will be primarily responsible for the final designing, constructing and furnishing of the facility contemplated by this MOU.
- D. All final plans for construction of the Manhattan Beach Library must be reviewed to assure compliance with zoning and building codes, and all final plans are subject to the mutual approval of the City and County.
- E. Except as specifically provided herein, all costs associated with the pre-design, design, construction and furnishing of the facility will be paid primarily by the County from set aside funds or bond financing that will be repaid from future set aside funds. In addition, the City may also contribute funds towards the project.

4. OTHER PROVISIONS

- A. If during the duration of this MOU or anytime thereafter, the City notifies the County of Los Angeles Board of Supervisors that the City no longer desires to be a part of the County Free Library System, (pursuant to California Education Code section 19116 or any other means), any unspent Set Aside Funds accrued at any time shall remain in the control of the County Library to spend at its sole discretion, including at other County Library facilities, and this MOU shall terminate at the time such notice is provided if it is still in operation at the time notice is given. The provisions of this section shall supersede all other provisions of this MOU including the provisions of Sections 7 and 24. And, the provisions of this section shall survive the natural expiration or other termination of this MOU and shall continue in effect until all Set Aside Funds accrued have been spent.
- B. The Parties hereby acknowledge that the expenditure of any Set Aside Funds are subject to, and conditioned upon, ongoing approval by the County Board of Supervisors and that such approval is not certain.
- C. This MOU shall not be construed to place any limitations on the City's ability to raise funds for contribution to the library services within the City, nor shall it limit the right of City or County Library to apply for and receive grants or State bond proceeds for library purposes.
- D. In the performance of its obligations under this MOU, the parties shall comply with all applicable laws, regulations, standards and ordinances.

- E. The City shall indemnify, defend and hold harmless the County, its Special Districts, elected and appointed officers, employees, and agents from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, and expenses (including attorney and expert witness fees), arising from or connected with the City's acts and/or omissions arising from and/or relating to this MOU.
- F. The County shall indemnify, defend and hold harmless the City, its elected and appointed officers, employees, and agents from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, and expenses (including attorney and expert witness fees), arising from or connected with the County's acts and/or omissions arising from and/or relating to this MOU.
- G. All notices of matters under this MOU shall be given in writing by first class mail, personal delivery or facsimile. Mailed notices shall be addressed as set forth below, but either party may change its address by giving written notice thereof to the other in accordance with the provisions of this section:

CITY: City of Manhattan Beach
ATTN: City Manager
1400 Highland Avenue
Manhattan Beach, CA 90266

COUNTY LIBRARY: County of Los Angeles Public Library
ATTN: County Librarian
7400 East Imperial Highway
Downey, CA 90242

- H. The laws of the State of California shall govern the interpretation and enforcement of this MOU. Any action, suit or proceeding related to or arising from this MOU shall be filed in the Los Angeles County Superior Court.
- I. The term of this MOU shall be from the date of complete execution of this MOU by both parties until June 30, 2030 unless sooner terminated as provided elsewhere herein. However, the term of this MOU shall be automatically extended two (2) times for an additional ten (10) years unless written objection to extension is given at any time by either party. Objection by any party to the automatic extension provisions of this MOU shall not be considered termination of the MOU by that party for purposes of Section 24 of this MOU. At the expiration of this MOU the County Library will cease placing Set Aside Funds in a separate account; however unless this MOU has been terminated by either party, and under the terms and procedures of Sections 7 and 10 of this agreement, *supra*, Set Aside Funds accrued during the pendency of this MOU shall be used to enhance County Library facilities and

services within the City until such funds are exhausted.

- J. Any amendments to this MOU shall be in writing and executed by both parties.
- K. Either party may unilaterally terminate this MOU for any reason upon 120 days written notice. As described in Section 7 *supra*, upon termination of this MOU, any remaining Set Aside Funds will be used as follows:
 - (1) If County terminates the MOU, any remaining Set Aside Funds will be used solely to improve facilities, services, and programs at libraries within the City.
 - (2) If City terminates the MOU, any remaining Set Aside Funds will remain in the control of the County Library to spend in its sole discretion, including at other County Library facilities.
 - (3) If the MOU is terminated by mutual written agreement of the City and the County, the parties shall agree upon the use or uses of the remaining Set Aside Funds as part of the termination agreement.
- L. This MOU is made and entered into for the sole benefit of the parties hereto. No other person or entity shall have any right of action based upon any provision of this MOU.
- M. This MOU shall be deemed to have been prepared jointly and equally by the parties, and none of its terms shall be construed against any party on the ground that the party prepared the MOU or caused it to be prepared.
- N. This MOU constitutes the entire agreement between the parties concerning the subject matter hereof and supersedes all prior agreements and understandings, both written and oral. This MOU may not be modified or amended except in a writing signed by all parties hereto.
- O. If any provision of this MOU or the application thereof to any person or circumstance is held invalid, the remainder of this MOU and the application of such provision to other persons or circumstances shall not be affected thereby.
- P. The persons executing this MOU on behalf of each of the parties warrant and represent that they have the authority to execute this MOU on behalf of the party for whom they execute and have the authority to bind the party to the obligations hereunder.

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IN WITNESS WHEREOF, the County and the City have executed this Agreement as of day, month and year first above written.

CITY OF MANHATTAN BEACH	COUNTY OF LOS ANGELES
<hr/> <p>Mitch Ward Mayor</p>	<hr/> <p>Margaret Donnellan Todd County Librarian</p>
Dated: _____	Dated: _____
ATTEST:	
<hr/> <p>Liza Tamurai City Clerk</p>	APPROVED AS TO FORM: Andrea Sheridan Ordin County Counsel
APPROVED AS TO FORM:	By <u>David Beaudet</u>
<hr/> <p>City Attorney</p>	David Beaudet Senior Deputy County Counsel



AGREEMENT BETWEEN
THE COUNTY OF LOS ANGELES
AND
THE CITY OF MANHATTAN BEACH
FOR
ARCHITECTURAL AND CONSULTING SERVICES
FOR THE MANHATTAN BEACH LIBRARY PROJECT

**AGREEMENT BETWEEN
THE COUNTY OF LOS ANGELES AND THE CITY OF MANHATTAN BEACH
FOR ARCHITECTURAL AND CONSULTING SERVICES FOR
THE MANHATTAN BEACH LIBRARY PROJECT**

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**AGREEMENT BETWEEN
THE COUNTY OF LOS ANGELES AND THE CITY OF MANHATTAN BEACH
FOR ARCHITECTURAL AND CONSULTING SERVICES FOR
THE MANHATTAN BEACH LIBRARY PROJECT**

THIS AGREEMENT (hereinafter "Agreement") is made and entered into this _____ day of _____, 2010 by and between the **COUNTY OF LOS ANGELES**, a body corporate and politic and a political subdivision of the State of California, (hereinafter "County"), and the **CITY OF MANHATTAN BEACH**, a municipal corporation, (hereinafter "City").

RECITALS

WHEREAS, the County owns the Manhattan Beach Library, and the real property on which the library sits, located at 1320 Highland Avenue, Manhattan Beach, CA 90266; and

WHEREAS, on September 28, 2010, a Memorandum of Understanding between the County and the City was approved by the County Board of Supervisors, which governs the use of property tax dollars apportioned to the County from property within the City for the purposes of providing and improving library services at the Manhattan Beach Library; and

WHEREAS, the City is willing to assist the County in the pre-design work for the improvement or enhancement of the Manhattan Beach Library, including but not limited to, retaining a Library Consultant and an Architect; and

WHEREAS, subject to the terms and conditions of this Agreement, the County will reimburse the City for costs incurred for architectural pre-design services, related library consultant services, and related pre-design professional services incurred by the City funded by the amount set aside by the Public Library for the Manhattan Beach Library and approved by the County Board of Supervisors as of September 28, 2010. The County and the City shall each bear their own administrative staff time devoted to this project and such costs shall not be charged to the set aside funds. The maximum County obligation for this Agreement is \$182,478. Any additional costs incurred under this Agreement are the responsibility of the City; and

NOW, THEREFORE, in consideration of the performance of the mutual promises and agreements herein contained at the time and in the manner specified, the parties hereto agree as follows:

1. **DEFINITIONS**

Unless the context otherwise requires, the terms defined in this section shall, for the purposes of this agreement, have the meaning herein specified:

- A. Architect. "Architect" means the sole proprietor, company, partnership, or corporation retained by the City to provide pre-design services for the Manhattan Beach Library project.
- B. Library Consultant. "Library Consultant" means the sole proprietor, company, partnership, or corporation retained by the City to provide programming, design development, library consulting, and coordination services for the Manhattan Beach Library project.
- C. Board. "Board" means the Board of Supervisors of the County of Los Angeles.
- D. City. "City" means the City of Manhattan Beach, a municipal corporation, 1400 Highland Avenue, Manhattan Beach, CA 90266.
- E. City Council. "City Council" means the City Council of the City of Manhattan Beach, CA.
- F. County. "County" means the County of Los Angeles, a body corporate and politic, a political subdivision of the State of California, Hall of Administration, 500 West Temple Street, Los Angeles, CA 90012.
- G. Manhattan Beach Library. "Manhattan Beach Library" or "Library" means that certain facility owned by the County and heretofore erected and constructed at 1320 Highland Avenue, Manhattan Beach, CA 90266, consisting of approximately 12,188 square feet of floor space.

2. **TERM OF AGREEMENT**

The term of this Agreement shall commence on the date that this Agreement has been executed by both the City and the County. This Agreement shall terminate only upon City's completion of all its obligations hereunder as approved by the County.

The County Librarian shall file a copy of this Agreement with the Executive Office of the County's Board of Supervisors within fifteen (15) days after execution of this Agreement.

3. ARCHITECTURAL AND CONSULTING SERVICES

- A. The Scope of Work and Budget for the Architectural and Consulting Services provided by the City under this Agreement are included as Exhibits "A", "B" and "C".
- B. Individual line items of the Project Budget for the Architectural Services and the Library Consultant Services, set forth in Exhibit "B" and "C" respectively, may be modified by mutual consent of the parties' representatives. However, the total Project Budget amounts shall only be increased through the procedures set forth in Paragraph 6.
- C. The City has retained the Library Consultant who will assist in the architect selection process and provide programming, design development, and project coordination services.
- D. The City will retain the Architect, who will conduct the pre-design study for the new and/or expanded Manhattan Beach Library and determine and develop an estimate of probable costs for the new and/or expanded Manhattan Beach Library.
- E. The term of the agreement between the City and the Architect shall extend to the time period necessary to complete the pre-design study.
- F. The City will ensure that the Architect takes into consideration the County Library's Low Voltage Specifications, when developing the cost estimate for the project. All low voltage systems, including voice/data cabling and terminations, patch panels, racks, main communication room cable trays and equipment, WiFi, intrusion, audio-visual and other low voltage systems, shall comply with the County Library's specifications.
- G. The County will reimburse the City for actual costs incurred related to pre-design study process and related professional services that may be required to completed the pre-design process, in an amount not to exceed \$50,000.
- H. The City shall submit all pre-design drawings and related documents from the pre-design study, the building program and all drawings to the County.
- I. The City shall allow the Designated Representatives of the County to participate in meetings with the Architect and Library Consultant. The schedule for the meetings shall be mutually developed by the City and the County.

- J. The City shall submit a Scope of Work for the pre-design services provided by the Architect and Library Consultant to be mutually agreed by the County and the City.

4. **TIME SCHEDULE**

- A. If the completion of documents is delayed for any cause beyond City's control, including but not limited to, any act, neglect, delay, or default of County or by changes or additions to the scope of work, or by injunction or by government control or regulations, or by damage or delay which may arise through or by fire, insurrection, or war, or by the abandonment of work through strikes, boycotts, or walkouts, the City's sole remedy is to request that the time of completion be extended to the extent of the actual time lost by reasons of any or all such causes.

5. **SUBMITTAL AND OWNERSHIP OF DOCUMENTS**

- A. The City agrees to provide the County Library with three (3) copies and an electronic file of all documents related to the pre-design study prepared by the Architect and the Library Consultant. Copies of architectural drawings produced during the pre-design study should be submitted in PDF and AutoCAD formats in addition to hardcopies..
- B. The County and the City agree that all materials, including but not limited to drawings, plans, specifications, calculations, reports, deliverables, diagrams, sketches, surveys, photographs, models (physical and computer), renderings, samples, mock-ups, presentation boards, maps, drafts, working papers, drawings, edited and/or unedited versions of deliverables, and any other materials or documents developed under this Agreement, including those in electronic form, and any and all Intellectual Property rights to these materials, including, but not limited to, any copyrights, are and shall remain the sole property of County (hereafter collectively, "County Materials").

The City will cause the Architect to assign and transfer to the County all the Architect's right, title and interest in and to all such County Materials developed under this Agreement. The County shall be deemed the owner of the County Materials and shall retain all common law, statutory, and other reserved rights, including copyrights, whether or not the Project is completed. County shall own the worldwide right, title, and interest in and to all expressions produced to a tangible medium, including the overall design embodied in the Project, which are the subject matter of the copyright created (whether created solely by the Architect or jointly with City, County, or others), developed, prepared, obtained, or furnished by Architect.

6. CHANGE NOTICES AND AMENDMENTS

- A. No representative of either County or City, including those named in this Agreement, is authorized to make any changes in any of the terms, obligations or conditions of this Agreement, except through the procedures set forth in this Paragraph 6.
- B. The parties hereunder reserve the right to request changes to any portion of the work required under this Agreement and to any other provisions of this Agreement. All such changes shall be accomplished only as provided in this Paragraph 6.
- C. Except as otherwise provided in this Agreement, for any change requested by either party which affects the scope of work, term, payments, or any term or condition included in this Agreement, a negotiated written Amendment to this Agreement shall be prepared and executed by the County's and the City's City Council authorized representatives.
- D. If the County or the City determines at any time that Scope of Work conducted pursuant to this Agreement may not be completed within the Budget, or that changes which affect the Scope of Work, term, payments, or any term or condition included in this Agreement are required to accomplish the purposes of this Agreement, the parties shall meet as soon as possible following receipt of notice to determine how the purposes of this Agreement may be completed within the Budget or how the deviation or potential deviation from the Scope of Work and/or the Budget will be cured. If, in the County's sole discretion, it appears possible to accomplish the purposes of this Agreement within the Budget and/or Scope of Work, the parties shall exercise their best efforts to mutually agree to a Corrective Action Plan to complete the work within the Budget and Scope of Work.
- E. In the Event the Corrective Action Plan fails to restore the pre-design study to compliance with the current Budget and/or Scope of Work, or the County determines that the Budget is insufficient to complete the work as described in the Scope of Work, the parties shall exercise their best efforts to meet and confer as to changes to the Scope of Work which would allow the purposes of this Agreement to be substantially met within the Budget and/or Scope of Work. The final decision as to how the funds remaining in the Budget shall be used shall be determined in the County's sole discretion after consideration of implementing the purposes of this Agreement to the greatest extent possible.
- F. Notwithstanding any other provision of this Paragraph 6, to the extent that extensions of time do not impact either the scope of work or cost of this Agreement, the County Librarian, in her sole discretion, may grant the City

extensions of time in writing for the work listed in the Scope of Work, provided that such extensions shall not exceed a total of twelve (12) months.

- G. Such Amendments shall be authorized subject to the following conditions:
- (1) That Amendments shall be in compliance with all applicable Federal, State, and County laws, rules, regulations, ordinances, guidelines, and directives;
 - (2) That the County's Board of Supervisors has appropriated sufficient funds for purposes of such Amendments and this Agreement;
 - (3) That the County Librarian ensures that such Amendments are approved by the County's Chief Executive Officer, and as to form by County Counsel; and
 - (4) That the County Librarian files a copy of all Amendments with the Executive Office of the County's Board of Supervisors within fifteen (15) days after execution of each Amendment.

7. COUNTY PAYMENT

The maximum County obligation for this Agreement is \$182,478.

The County shall reimburse the City for architectural pre-design and library consultant costs and other professional services incurred by the City under this Agreement subject to the County's approval of the invoices and supporting documentation submitted by the City. The County will not reimburse the City for the cost of administrative staff devoted to this Project. The total amount of the County's payment to the City under this Agreement shall not exceed the maximum County obligation for this Agreement as set forth in this Paragraph 7 above and in the total Project Budgets for this Agreement at Exhibits "B" and "C" of this Agreement. Any additional costs incurred by the City under this Agreement that exceeds the maximum County obligation will be the sole responsibility of the City.

8. INVOICES

All demands for payment under this Agreement shall be submitted to the County with supporting documentation of expenses incurred by the City in duplicate to the following address:

County of Los Angeles Public Library
Attention: Chief Deputy
7400 East Imperial Highway, Room 201
Downey, California 90242

The invoices should indicate the amount due and the amounts previously paid. The County Designated Representative must have written approval of the invoice prior to any payment thereof. In no event shall the County be liable or responsible for any payment prior to such written approval. The City shall receive the payment from the County within 30 days from the receipt of such invoice. Approval of payment will not be unreasonably withheld.

9. INDEMNIFICATION

- A. The City shall indemnify, defend and hold the County, its Special Districts, elected and appointed officers, employees and agents harmless from and against all liability, including, but not limited to demands, claims, actions, fees, costs and expenses (including attorney and expert witness fees), arising from or connected with services provided by the City, its contractors and/or consultants under this agreement.
- B. The County shall indemnify, defend and hold the City, its Special Districts, elected and appointed officers, employees and agents harmless from and against all liability, including, but not limited to demands, claims, actions, fees, costs and expenses (including attorney and expert witness fees), arising from or connected with services provided by the County, its contractors and/or consultants under this agreement.
- C. The City shall require the Architect and Library Consultant to indemnify, defend and hold the County, its Special Districts, elected and appointed officers, employees and agents harmless from and against all liability, including, but not limited to demands, claims, actions, fees, costs and expenses (including attorney and expert witness fees), arising from or connected with the negligent acts or omissions, recklessness, or willful misconduct of the Architect.
- D. The indemnification provisions of this section shall survive the expiration of termination of this agreement.

10. INSURANCE REQUIREMENTS

- A. Insurance: Without limiting the City's indemnification of the County and during the term of this agreement, the City shall provide and maintain the following insurance specified in this agreement. Such insurance shall be primary to and not contributing with any other insurance or self-insurance programs maintained by the County, and such coverage shall be provided and maintained at the City's own expense.
 - (1) General Liability insurance (written on ISO policy form CG 00 01 or its equivalent) and endorsed to name the County as an additional insured, with limits of not less than the following:

General Aggregate:	\$2 million
Products/Completed Operations Aggregate:	\$2 million
Personal and Advertising Injury:	\$1 million
Each Occurrence:	\$1 million

(2) Automobile Liability insurance (written on ISO form CA 00 01 or its equivalent) with a limit of liability of not less than \$1 million for each accident and providing coverage for all "owned", "hired" and "non-owned" vehicles, or coverage for "any auto".

(3) Workers Compensation and Employers' Liability insurance providing workers compensation benefits, as required by the Labor Code of the State of California and for which the City is responsible. In all cases, the above insurance shall also include Employers' Liability coverage with limits of not less than the following:

Each Accident:	\$1 million
Disease - policy limit:	\$1 million
Disease - each employee:	\$1 million

(4) Architect Insurance: The City shall require the Architect to provide the following insurance for the library project:

(a) General Liability. Such insurance shall be written on ISO policy form CG 00 01 or its equivalent with limits of not less than \$1 million per occurrence and \$2 million aggregate. The products/completed operations coverage shall continue to be maintained for a period of at least three (3) years from the date the Project is completed and accepted by the City.

(b) Automobile Liability. Such coverage shall be written on ISO policy form CA 00 01 or its equivalent with limits of not less than \$1 million each accident. Such insurance shall include coverage for all "owned," "hired," and "non-owned" automobiles, or coverage for "any auto."

(c) Professional Liability Insurance. Such insurance shall cover liability arising from any error, omission, negligent or wrongful act of the Architect, its officers or employees with limits of not less than \$5 million per occurrence and aggregate. The coverage shall also provide an extended

two-year reporting period commencing upon termination or cancellation of this Agreement.

- (d) Workers Compensation and Employers' Liability insurance providing workers compensation benefits, as required by the Labor Code of the State of California and for which Architect is responsible.

In all cases, the above insurance shall also include Employers' Liability coverage with limits of not less than the following:

Each Accident:	\$1 million
Disease - policy limit:	\$1 million
Disease - each employee:	\$1 million

- (5) Library Consultant Insurance: The City shall require the Library Consultant to provide the following insurance for the library project:

- (a) General Liability. Such insurance shall be written on ISO policy form CG 00 01 or its equivalent with limits of not less than \$1 million per occurrence and \$2 million aggregate. The products/completed operations coverage shall continue to be maintained for a period of at least three (3) years from the date the Project is completed and accepted by the City.
- (b) Automobile Liability. Such coverage shall be written on ISO policy form CA 00 01 or its equivalent with limits of not less than \$1 million each accident. Such insurance shall include coverage for all "owned," "hired," and "non-owned" automobiles, or coverage for "any auto."
- (c) Workers Compensation and Employers' Liability insurance providing workers compensation benefits, as required by the Labor Code of the State of California and for which Library Consultant is responsible.

In all cases, the above insurance shall also include Employers' Liability coverage with limits of not less than the following:

Each Accident:	\$1 million
Disease - policy limit:	\$1 million
Disease - each employee:	\$1 million

- B. Waiver of Subrogation: The City and Architect shall obtain appropriate endorsements upon all insurance policies waiving subrogation by the insurer(s) against the County.
- C. Evidence of Insurance: Certificate(s) or other evidence of coverage satisfactory to the County shall be delivered to the County prior to the Commencement Date. Such certificates or other evidence shall:
- (1) Specifically identify this Agreement;
 - (2) Clearly evidence all coverages required in this Agreement;
 - (3) Contain the express condition that insurer will use its best efforts to give written notice by mail to the County at least thirty (30) days in advance of cancellation for all policies evidenced on the certificate of insurance;
 - (4) Identify the County of Los Angeles, its Special Districts, its officials, officers and employees as additional insureds for all activities arising from this Agreement under the general liability and automobile liability policies. The City shall provide the County with additional insured endorsements certifying that these required policies are in place in favor of the County; and
 - (5) Identify any deductibles or self-insured retentions exceeding \$25,000.
- D. Review of Insurance Requirements: Throughout the term of this Agreement and upon Notice to the City, the County may review and adjust at any time the types and limits of insurance required under this Agreement to a commercially reasonable level. Insurance is to be provided by insurers acceptable to the County with an A.M. Best rating of not less than A:VII, unless, otherwise approved by the County.
- E. Failure to Maintain Coverage: Failure by the City to maintain the required insurance, or to provide evidence of insurance coverage acceptable to the County, shall constitute a material breach of this Agreement.
- F. Notification of Incidents, Claims, or Suits: The City shall report to the County any accident or incident relating to services performed under this Agreement which involves injury or property damage, which might reasonably be thought to result in the filing of a claim or lawsuit against the City and/or the County. Such report shall be made in writing within 72 hours of the City's knowledge of such occurrence.
- G. Compensation for County Costs: In the event that the City and/or Architect fails to comply with any of the indemnification or insurance

requirements of this Agreement, and such failure to comply results in any costs to the County, the City and/or Architect shall pay full compensation for all reasonable costs incurred by the County.

- H. The County understands and acknowledges that the City is a public entity and is a member of the California Joint Powers Insurance Authority, pursuant to a joint powers agreement, in place of maintaining regular policies of insurance. The City represents that such status constitutes satisfactory compliance with the County's insurance requirements, and County accepts such representation. In the event the City decides to change its insurance status, the City agrees to provide the County with thirty (30) days advance written notice of the effective date of this change in status. Thereafter, the City agrees to provide the County with appropriate evidence of insurance coverage(s).

11. **NOTICES**

All notices, statements, demands, requests, consents, approvals, authorization or designations, including notices of default, under this Agreement by either party to the other shall be in writing, and shall be sufficiently given and served upon the other party, if sent by United States mail, postage prepaid, return receipt requested, and addressed as follows:

- A. To the City:

City Clerk, City of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, CA 90266

- B. To the County:

County of Los Angeles Public Library
Attention: Chief Deputy
7400 East Imperial Highway, Room 201
Downey, CA 90242

The County and the City may in writing authorize their representatives to accept any or all of the aforementioned notices by personal delivery or service.

12. **TERMINATION**

- A. This Agreement may be terminated by the County for the convenience of the County. The Agreement may also be terminated by either party as a result of the default by the other party of its obligations under this Agreement.

- B. Notice of termination shall be given in writing and shall be complete when delivered to the recipient (whether accepted or rejected) after deposit in the United States mail in a sealed envelope with postage paid and directed to the City at the address in Section 13 herein, or upon personal delivery to any person whose actual knowledge of such termination would be sufficient notice to the City. Actual knowledge of such termination by an officer of the City or by the managing agent regularly in charge of the Work on behalf of said City shall in any case be sufficient notice.

13. FINANCIAL RECORDS

- A. The City agrees to maintain, and make available for County inspection and audit, accurate records of all of its costs, disbursements and receipts with respect to the costs it has incurred under this Agreement. The City also agrees to retain such financial accounts, documents and records for five (5) years following termination of this Agreement.
- B. At any time during this Agreement or within five (5) years of the expiration or prior termination of this Agreement, authorized representatives of the County may conduct an audit of the City records for the purpose of verifying appropriateness and validity of costs incurred under the terms of this agreement. If said audits reveal expenditures that cannot be verified or that were paid in violation of the terms of this Agreement, the City shall reimburse the County for any amounts paid by the County to the City for such disallowed expenditures. If the County has not yet reimbursed the City for its costs incurred under this Agreement, the County may, in its discretion, reduce its payment obligation by an amount equal to the disallowed expenditures.
- C. The City, within thirty (30) days of notification from the County of its audit findings, may dispute the audit findings in writing to the County and provide the County with records and/or documentation to support its cost claims. The County shall review this documentation and make a final determination as to the validity of the expenditures.

14. GOVERNING LAW, JURISDICTION, AND VENUE

This Contract shall be governed by, and construed in accordance with, the laws of the State of California. The Contractor agrees and consents to the exclusive jurisdiction of the courts of the State of California for all purposes regarding this Contract and further agrees and consents that venue of any action brought hereunder shall be exclusively in the County of Los Angeles.

**MANHATTAN BEACH LIBRARY PROJECT
ARCHITECTURAL SERVICES
SCOPE OF WORK**

1. PRE-DESIGN PHASE GOALS

- **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.
- **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.
- **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.
- **Confirm Project Construction Budget:** Prepare a detailed cost plan that confirms the project budget and verifies feasibility of the recommended project.
- **Determine Project Delivery Method:** Confirm the best project delivery method for the project and identify the design and construction schedule going forward.
- **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. PRE-DESIGN SERVICES

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

- The Architect 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 Architect will deliver to the City (2) wet stamped and signed copies of the final survey as well as digital formats.

- The Architect shall prepare a geotechnical report for the subject site identifying existing soils conditions and requirements for building foundation design.
- The Architect shall review structural drawings for the existing library to assess seismic safety of the existing structure. The Architect 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.
- The Architect 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.
- The Architect shall update existing condition plans and site sections to reflect the survey.
- The Architect 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.
- In cooperation with the City and the County, the Architect shall prepare documents (Pre-Design Documents) illustrating alternate design concepts for the purpose of confirming project scope and budget. See Deliverables below.
- The Architect shall confirm off-site utility requirements with utility providers.
- The Architect 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.
- The Architect 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.

- The City has established a Construction Budget. The Architect 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.
- The Architect 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.
- The Architect shall meet with Library Stakeholders as required to advance the design. See Program of Outreach below.
- The Architect shall make presentations of the Pre-Design documents to and obtain approval from the Library Commission, the Planning Commission and City Council.

3. PROGRAM OF OUTREACH

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

- Library Subcommittee
- Manhattan Beach City Council
- Planning Commission
- Public Works Director and Community Development Director
- County of Los Angeles Public Works administration and staff
- Manhattan Beach Branch Library Director and staff

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):

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

4. SPECIALIST TEAM

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

- Geotechnical
- Survey
- Civil
- Structural
- Mechanical/Electrical/Plumbing
- Information Technology
- Code
- Cost Estimation
- Food Service
- Sustainability

5. 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:

- Site Plan (Minimum 1"=16')
- Program Distribution Diagrams
- Floor Plan Diagrams (1/8" = 1')
- Conceptual structural system layout and description
- Conceptual mechanical systems layout and description
- Building section diagrams (minimum 1/8"=1'-0")
- Building elevation diagrams (minimum 1/8"=1'-0")
- Physical model (minimum 1"=16')
- Computer generated 3D massing model
- Computer generated views (2)

- Detailed cost plan
- Descriptive narratives

6. REIMBURSABLES

The City shall reimburse the Architect a sum for its reasonable out-of-pocket expenses that are incurred and paid for by the Architect 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:

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

7. GENERAL REQUIREMENTS

- The City and/or County may be requested to supply the Architect 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 Architect will make a good-faith effort to verify the accuracy of such information by means of a thorough visual survey of site conditions.
- 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 Architect which may not be shown on the existing record drawings. The Architect 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 Architect, pursuant to its standard of care and visual observation of existing conditions.
- The Architect and the Architect'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.

- The City will provide the services of a Library Consultant.

8. AUTHORIZED ADDITIONAL SERVICES

- Additional Services shall be provided if authorized or confirmed in writing by the City.
- The Architect 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.
- 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.
- Additional Services means:
 - 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 Architect 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.

**MANHATTAN BEACH LIBRARY PROJECT
ARCHITECTURAL SERVICES
BUDGET**

Lump Sum Architect's Fee, including Reimbursable	\$ 93,135
Contingency Allowance (10%)	<u>\$ 9,313</u>
Sub-total:	<u>\$102,448</u>
Allowance for Additional Professional Services and Consulting includes, but is not limited to, the following:	<u>\$50,000</u>
<ul style="list-style-type: none">• Site topographic and/or aerial• Site boundary survey• Off-site engineering design• Off-site architectural design• Geotechnical engineering• Hazardous Materials studies• Distribution of Bid Documents• Story Poles installation for plan review process	
Total	<u>\$152,448</u>

**MANHATTAN BEACH LIBRARY PROJECT
LIBRARY CONSULTING SERVICES
BUDGET AND SCOPE OF WORK**

BUDGET

Library Consultant's Fee, including Reimbursable	\$ 27,300
Contingency Fee (10%)	<u>\$ 2,730</u>
Total	<u>\$ 30,030</u>

SCOPE OF WORK

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. The Library Consultant will work with Architect during the programming phase and will present the final program to the design team as they begin conceptual design phase of project.

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

ADDITIONAL SERVICES

Provide additional services to the 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.

CONCEPTUAL DESIGN

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.

SCHEMATIC DESIGN

Work with design team on details related to schematic design phase. Continuation of Conceptual Design tasks with greater level of detail. Review Schematic Design with County Library staff.

FURNITURE AND EQUIPMENT

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.

DESIGN DEVELOPMENT

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 County Library requirements.

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.

COUNTY OF LOS ANGELES
REQUEST FOR APPROPRIATION ADJUSTMENT
DEPARTMENT OF PUBLIC LIBRARY

DEPT'S. NO. 461
Sept. 01. 2010

AUDITOR-CONTROLLER:

THE FOLLOWING APPROPRIATION ADJUSTMENT IS DEEMED NECESSARY BY THIS DEPARTMENT. PLEASE CONFIRM THE ACCOUNTING ENTRIES AND AVAILABLE BALANCES AND FORWARD TO THE CHIEF EXECUTIVE OFFICER FOR HIS RECOMMENDATION OR ACTION.

ADJUSTMENT REQUESTED AND REASONS THEREFOR

FY 2010-2011
4 - VOTES

SOURCES

USES

Public Library
Designation for Program Expansion
B06-PL-3017-41200
\$183,000
Decrease Designation

Public Library
Other Charges
B06-PL-5500-41200
\$183,000
Increase Appropriation

SOURCES TOTAL: \$ 183,000

USES TOTAL: \$ 183,000

JUSTIFICATION

To transfer appropriation from Designation to Other Charges to fund the architectural and consulting services agreement with the City of Manhattan Beach.



AUTHORIZED SIGNATURE Ting Fanti, Budget and Fiscal Services

BOARD OF SUPERVISOR'S APPROVAL (AS REQUESTED/REVISED)

REFERRED TO THE CHIEF EXECUTIVE OFFICER FOR ...

ACTION

RECOMMENDATION

AUDITOR-CONTROLLER

BY Karin Shikama

B.A. NO. 024

Spt 10 20 10

APPROVED AS REQUESTED

APPROVED AS REVISED

CHIEF EXECUTIVE OFFICER

BY [Signature]
9/14 20 10

**CITY OF MANHATTAN BEACH
MINUTES OF THE CITY COUNCIL
REGULAR MEETING
JULY 20, 2010**

The Regular Meeting of the City Council of the City of Manhattan Beach, California, was held on the 20th day of July, 2010, at the hour of 6:33 p.m., in the City Council Chambers of City Hall, at 1400 Highland Avenue, in said City. A full video of this City Council meeting can be accessed online at www.citymb.info.

PLEDGE TO FLAG

James Brandon led the pledge of allegiance.

THE FOLLOWING ITEM WAS TAKEN OUT OF ORDER

CEREMONIAL CALENDAR

07/20/10-2. Presentation of a Commendation to Sister City Santa Rosalia and Recognition of the Baja Club for their Efforts with the Sister City/Baja Club Student Exchange Program

Mayor Ward, on behalf of the Council, presented a plaque to the City of Santa Rosalia, Mexico in recognition of their participation in the Sister Cities/Baja Club Student Exchange Program.

ROLL CALL

Present: Tell, Powell, Cohen, Montgomery and Mayor Ward.
Cohen (arrived at 6:38 p.m.)
Absent: None.
Clerk: Tamura.

CEREMONIAL CALENDAR

07/20/10-1. Presentation of a "Baby Passport" to Susan Shelton and Carlos Vigon

Mayor Ward, on behalf of the Council, presented a "Baby Passport" to **Susan Shelton** and **Carlos Vigon** in acknowledgment of the birth of their son **Carlos Paxton Vigon**.

CONSENT CALENDAR

Prior to voting on the Consent Calendar, Mayor Pro Tem Montgomery asked for clarification regarding the hours of operation for Item No. 8 (*Consideration of Determination that the Public Convenience or Necessity Would be Served by the Issuance of an Alcohol Beverage License at 1400 Parkview Avenue (Marriott Hotel)*).

Interim City Manager Thompson stated that the hours of operation for the Marriott Hotel Gift Shop are 7:00 a.m. – 10:00 p.m.

Mayor Pro Tem Montgomery also asked to confirm whether the contractor, **American Asphalt South**, listed at the bottom of Page 3 of Item No. 10 (*Consideration to Approve Award of Contract (\$21,896.00) for the Safe Routes to School Pedestrian Countdown Signal Retrofit Project to Christopher R. Morales, Inc.*) was a typo.

Interim City Manager Thompson confirmed that it was a typo and it will be corrected.

Councilmember Powell asked that Item No. 17 (*Consideration of Draft Minutes, Parks and Recreation Commission Meeting of June 28, 2010*) be revised to reflect that the date of the “Movies at the Beach” is August 7, 2010, not August 2, 2010.

The Consent Calendar (Item Nos. 3 through 19), consisting of items under *General Consent* and *Boards and Commissions*, was approved by motion of Mayor Pro Tem Montgomery seconded by Councilmember Cohen and passed by unanimous roll call vote.

Ayes: Tell, Powell, Cohen, Montgomery and Mayor Ward.
Noes: None.
Absent: None.
Abstain: None.

GENERAL CONSENT

07/20/10-3. Approve Minutes of the City Council Regular Meeting of July 6, 2010

The Council approved the subject minutes.

07/20/10-4. Consideration of a Resolution to Support Assembly Bill 1998 (Brownley) for Implementation of a Statewide Plastic Bag Ban and Limits on Paper Bag Distribution

The Council adopted Resolution No. 6268.

07/20/10-5. Consideration of Financial Reports:
a) Ratification of Demands: July 1, 2010 and July 8, 2010
b) Investment Portfolio for the Month Ending June 30, 2010

The Council approved with no exception Warrant Register Nos. 1B, 2B and 28B in the amount of \$6,290,634.12 in payment of ratification of demands and claims as prepared by the Director of Finance, together with the original demands and claims as prepared by said Warrant Register and received and filed the Investment Portfolio for the month ending June 30, 2010.

07/20/10-6. Consideration of Ratification of Motor Fuel Purchase from Falcon Fuels in the Amount of \$22,458.67

The Council approved ratifying the subject purchase.

07/20/10-7. Consideration of the Attached Side Letter Agreement Extending the Memorandum of Understanding Between the City of Manhattan Beach and the Manhattan Beach Firefighters’ Association Until July 31, 2011

The Council approved the attached Side Letter Agreement extending the Memorandum of Understanding (MOU) between the City of Manhattan Beach and the Manhattan Beach Firefighters’ Association until July 31, 2011.

07/20/10-8. Consideration of Determination that the Public Convenience or Necessity Would be Served by the Issuance of an Alcohol Beverage License at 1400 Parkview Avenue (Marriott Hotel)

The Council approved the request by determining that the public convenience would be served by the issuance of a beer and wine license for the Marriott Hotel gift shop at 1400 Parkview Avenue.

07/20/10-9. Consideration to Approve Award of Professional Services Contract to Stantec Consulting Services, Inc. (\$30,400) for the Triennial Update to the City's Pavement Management Program

The Council approved the award of a Professional Services Contract to Stantec Consulting Services, Inc. in the amount of \$30,400 for the Triennial Update to the City's Pavement Management Program.

07/20/10-10. Consideration to Approve Award of Contract (\$21,896.00) for the Safe Routes to School Pedestrian Countdown Signal Retrofit Project to Christopher R. Morales, Inc.

The Council approved an award of contract in the net amount of \$21,896.00 to Christopher R. Morales, Inc. for the Safe Routes to School Pedestrian Countdown Signal Retrofit Project.

07/20/10-11. Consideration to Approve Progress Payment No. 3 in the Net Amount of \$126,000.00 to T.E. Roberts, Inc. for the 2007-10 Water Main Replacement Project

The Council approved the issuance of the subject progress payment.

07/20/10-12. Consideration to Approve Final Payment in the Net Amount of \$27,403.82 to Atom Engineering Construction; Formally Accept the City Yard Fuel Island Cover Project as Complete; Approve Change Orders; Authorize Filing of the Appropriate Notice of Completion and Release of Retention in the Amount of \$9,373.04

The Council approved the issuance of the subject final payment; formally accepted the City Yard Fuel Island Cover Project as Complete; approved a Change Order in the amount of \$3,751.38; and authorized the filing of the appropriate Notice of Completion and Release of Retention in the amount of \$9,373.04.

07/20/10-13. Consideration of an Amendment to a License Agreement with Northrop Grumman Systems Corporation Related to an Aerial Fiber Optic Communication Line Connecting Northrop Grumman Facilities in Manhattan Beach and Redondo Beach

The Council approved authorizing the City Manager to execute an amendment to a license agreement with Northrop Grumman Systems Corporation related to an Aerial Fiber Optic Communication Line connecting Northrop Grumman Facilities in Manhattan Beach and Redondo Beach.

07/20/10-14. Consideration to Approve Award of Professional Services Contract to Kathleen McGowan, P.E., for the Municipal Stormwater National Pollutant Discharge Elimination System (NPDES) Permit and Total Maximum Daily Load (TMDL) Consulting

The Council approved the award of a Professional Services Contract to Kathleen McGowan, P.E., in the amount of \$59,338 to assist the City in meeting the requirements of the National Pollutant Discharge Elimination System (NPDES) Permit for Municipal Storm Water and Urban Runoff Discharges (Municipal Stormwater Permit) and undertaking implementation activities to comply with the Santa Monica Bay Beaches Bacteria Wet Weather and Dry Weather Total Maximum Daily Loads (TMDLs).

07/20/10-15. 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

The Council approved the award of Professional Services Contracts to MDA Johnson Favaro for \$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 an amount not-to-exceed \$2,730 (10% contingency) to assist the City in the pre-design of improvements to the Los Angeles County Library in Manhattan Beach and managing oversight of the Library project.

It was also noted that funds will be appropriated from the City's General Fund until such time as the Los Angeles County releases Library Reserves for their Manhattan Beach Library and reimburses the City of Manhattan Beach for these professional services.

BOARDS AND COMMISSIONS

Cultural Arts Commission

07/20/10-16. Consideration of Draft Minutes, Cultural Arts Commission Meeting of June 8, 2010

The Council received and filed the subject draft minutes.

Parks and Recreation Commission

07/20/10-17. Consideration of Draft Minutes, Parks and Recreation Commission Meeting of June 28, 2010

The Council received and filed the subject draft minutes as amended.

Councilmember Powell requested that these minutes be amended to reflect that the date of the "Movies at the Beach" is August 7, 2010, not August 2, 2010.

Planning Commission

07/20/10-18. Consideration of Action Minutes, Planning Commission Meeting of July 14, 2010

The Council received and filed the subject action minutes.

07/20/10-19. Consideration of the Planning Commission Decision to Approve a Master Use Permit Amendment to Allow a New Retail Wine and Beer Shop With On-Site Beer and Wine Sampling at 3500 Sepulveda Boulevard, Hacienda/Haagen Building (The Vintage Wine Shoppe) and Determine that the Public Convenience or Necessity would be Served by the Issuance of a Liquor License

The Council received and filed the decision of the Planning Commission to approve a Master Use Permit Amendment and determine that the public convenience or necessity would be served by the issuance of a liquor license.

COMMUNITY ANNOUNCEMENTS

07/06/10-23. Don Gould Re Upcoming Library Events

Los Angeles County Librarian Don Gould shared information about upcoming events at the Manhattan Beach Library.

07/06/10-24. Administrative Clerk Ariana Kennedy Re Big Green Bus

Administrative Clerk Kennedy announced that the Big Green Bus (a bus that teaches the public simple lifestyle changes that can save money, energy, and resources in everyday activities) will be parked at the Manhattan Beach Pier on August 2, 2010 from 9:00 a.m. to 4:00 p.m.; at the Farmer's Market on August 3, 2010 from 11:00 a.m. to 4:00 p.m.; and for more information, contact Environmental Programs Manager Sona Kalapura at (310) 802-5058.

07/06/10-25. Police Lieutenant Andy Harrod Re Oversized Vehicles

Police Lieutenant Harrod invited interested residents to attend the Parking and Public Improvements Commission meeting on July 22, 2010 at 6:30 p.m. for a discussion on the oversized vehicle ordinance. He also asked that questions be e-mailed to aharrod@citymb.info.

07/06/10-26. Assistant to the City Manager Lindy Coe-Juell Re Centennial Logo Competition

Assistant to the City Manager Coe-Juell announced that the Centennial Committee has launched a logo design competition open to all who live, work or attend school in the City; that the deadline for entries is August 23, 2010; that the winner will be announced at the September 7, 2010 City Council meeting; and for more information, visit www.citymb.info or call Assistant to the City Manager Lindy Coe-Juell at (310) 802-5054.

07/06/10-27. Mayor Pro Tem Montgomery Re New Parking Meters

Mayor Pro Tem Montgomery explained that the new parking meters are not installed in the parking structures and garages. He pointed out that the new meters will take coins or credit cards; that people interested in returning their cash keys may do so in the Finance Department; and that the balance and deposit will be returned.

07/06/10-28. Mayor Pro Tem Montgomery Re Coastal Commission

Mayor Pro Tem Montgomery stated that the Coastal Commission has once again approved the permit for the Association of Volleyball Players (AVP) Manhattan Beach Open.

07/06/10-29. Councilmember Cohen Re North Manhattan Beach Summer Stroll

Councilmember Cohen reminded the public that the North Manhattan Beach Summer Stroll and Open House will take place on July 29, 2010 from 5:00 p.m. until 10:00 p.m.

07/06/10-30. Councilmember Powell Re LA County Lifeguard Medal of Valor

Councilmember Powell announced that the Los Angeles County Lifeguard Medal of Valor dinner will be held on July 29, 2010 at 6:00 p.m. at the Seaside Lagoon in Redondo Beach.

07/06/10-31. Councilmember Powell Re Concerts in the Park

Councilmember Powell reminded the public that *Concerts in the Park* take place every Sunday at Polliwog Park from 5:00 p.m. to 7:00 p.m. until September 5, 2010. He invited everyone to attend the August 1st concert and added that he will be the master of ceremonies that evening.

07/06/10-32. Mayor Ward Re Parking Meters

Mayor Ward clarified a few issues about the new parking meters and commented that he thinks they will be a good step forward for the City.

AUDIENCE PARTICIPATION

07/06/10-33. Joan Allen Re Thanks

Joan Allen, 200 Block of 36th Street, thanked Council for being extremely responsive to concerns regarding the North Manhattan Beach Valet Program. She also thanked the Police Department for their responsiveness.

PUBLIC HEARINGS

None.

GENERAL BUSINESS

07/20/10-20. Consideration of Issues Regarding the Proposed Solid Waste Request for Proposal (RFP)

Mayor Ward introduced the subject item and Public Works Director Jim Arndt provided the staff presentation, with **HF&H Senior Vice President Laith Ezzet** providing the PowerPoint presentation.

Environmental Programs Manager Sona Kalapura responded to Council questions.

The following individuals spoken on this item:

- **Richard Hatch, No Address Provided**
- **Lisa Ryder Moore, Hermosa Beach Resident**
- **Tim Frye, Crown Disposal**
- **Jeannine Hammer, Waste Management**

MOTION: Councilmember Powell moved to approve Option 2 “Additional Residential Trash Cart Costs” as identified in the staff report; approve the 44% minimum required “Hauler Diversion Goal” to be included as a part of the Request for Proposal (RFP); and approve that the contract provide for liquidated damages for any hauler that fails to meet the minimum diversion rate. The motion was seconded by Councilmember Tell and passed by the following roll call vote:

Ayes: Tell, Powell and Ward.
Noes: Cohen and Montgomery.
Absent: None.
Abstain: None.

07/20/10-21. Consideration of the Proposed 2010-2011 Environmental Work Plan and Renewal of the Environmental Task Force

Mayor Ward introduced the subject item and Environmental Programs Manager Sona Kalapura provided the staff presentation.

There was no public comment on this item.

Council directed staff to begin recruitment for the next phase of a 10-Member Environmental Task Force; and to return in September for Council to appoint members to the Task Force and approve the list of specific goals to be identified in the 2010-2011 Environmental Work Plan.

Hearing no objection, it was so ordered.

ITEMS REMOVED FROM THE CONSENT CALENDAR

None.

CITY MANAGER REPORT(S)

None.

OTHER COUNCIL BUSINESS, COMMITTEE AND TRAVEL REPORTS

07/20/10-34. Mayor Pro Tem Montgomery Re ICA Conference

Mayor Pro Tem Montgomery shared that Mayor Ward, Councilmember Powell, and he attended the Independent Cities Conference (ICA) and the topic was “How do Cities Move to the Next Decade” with speakers focusing on pension reform and the health care bill.

07/20/10-35. Mayor Ward Re Congratulations to Mayor Pro Tem Montgomery

Mayor Ward congratulated Mayor Pro Tem Montgomery as the next ICA President explaining that Mayor Pro Tem Montgomery will carry on a great tradition.

Mayor Pro Tem Montgomery thanked Mayor Ward and announced that his installation dinner will be held on September 10, 2010 here in Manhattan Beach.

07/20/10-36. Councilmember Powell Re ICA Conference

Councilmember Powell stated that the ICA conference was fantastic and that he has never learned so much in such a short period of time. He mentioned that a good portion of the credit is attributable to Mayor Pro Tem Montgomery’s involvement.

07/20/10-37. Mayor Ward Re ICA Conference

Mayor Ward commented that the ICA Conference was fantastic and that he appreciated the warm weather.

07/20/10-22. Request by Mayor Pro Tem Montgomery to Discuss the Limitation of Taxi Cab Pick-Ups

Mayor Pro Tem Montgomery explained that while the City contracts with five taxicab companies, he has received a number of complaints that one hotel is restricting taxicab pick-ups to one company. Mayor Pro Tem Montgomery suggested Council consider drafting an ordinance prohibiting exclusivity.

Mayor Ward concurred and directed staff to return with a draft ordinance at a future City Council meeting.

Hearing no objection it was so ordered.

ADJOURNMENT

At 9:00 p.m. the Regular City Council meeting of July 20, 2010, was duly adjourned to the 5:30 p.m. Adjourned Regular Meeting to be followed by the 6:30 p.m. Regular City Council Meeting on Tuesday, August 3, 2010, in the City Council Chambers of City Hall, 1400 Highland Avenue, in said City.

Liza Tamura
Recording Secretary

Mitch Ward
Mayor

ATTEST:

Liza Tamura
City Clerk