



Staff Report

City of Manhattan Beach

TO: Honorable Mayor Montgomery and Members of the City Council

THROUGH: *DC* David N. Carmany, City Manager

FROM: Eve R. Irvine, Chief of Police *ER*

DATE: July 5, 2011

SUBJECT: Consideration of a Joint Powers Agreement with the Orange County Sheriff's Department for Forensic Analysis and Consultation with an Estimated Value of \$3,000, and Allocate \$10,000 from Unreserved Asset Forfeiture Funds for this and Future Joint Powers Agreements.

RECOMMENDATION:

Staff recommends that the City Council a) authorize the City Manager to enter into a Joint Powers Agreement with the Orange County Sheriff's Department for Forensic Analysis and Consultation with an estimated value of \$3,000, and b) allocate \$10,000 from unreserved Asset Forfeiture Funds for this and future Joint Powers Agreements.

FISCAL IMPLICATION:

The Orange County Sheriff's Department charges \$160 per hour for forensic analysis of DNA. The project recommended for analysis is estimated to take 14 hours, resulting in an estimated cost of \$2,240. The Agreement also covers future court testimony that may be required, also charged at the rate of \$160 per hour (estimated not-to-exceed \$760). Funds are available in the unreserved Police Department Asset Forfeiture Fund; there will be no impact to the General Fund. Staff recommends that City Council authorize the allocation of \$10,000 from unreserved Asset Forfeiture Funds for this and future Joint Powers Agreements. If approved, this would be included as an ongoing expenditure line item in the Police Department's annual Asset Forfeiture budget.

DISCUSSION:

The Manhattan Beach Police Department currently uses the Los Angeles Sheriff's Department Crime Lab to process DNA collected at crime scenes. The Los Angeles Sheriff's Department Crime Lab will process evidence for the Manhattan Beach Police Department at no cost; however, their lab is backlogged and turnaround can take six to twelve months.

The Orange County Sheriff's Department Crime Lab will accept outside agencies' DNA testing requests on a contract basis. Each case requires a separate Joint Powers Agreement which estimates the average time required to analyze the requested evidence. Utilizing the services of the Orange County Sheriff's Department will expedite the processing of evidence, with

turnaround at thirty days or less, allowing detectives to follow up on investigative leads in a more expeditious manner.

Other local agencies, including the Inglewood Police Department, have utilized the forensic services of the Orange County Crime Lab with continued success. In future cases where solid DNA evidence is collected, staff will consider future Joint Powers Agreements to facilitate expedient DNA analysis. The allocation of \$10,000 from the unreserved Asset Forfeiture fund will provide funding for this case, as well as future cases.

ATTACHMENTS:

- A. Joint Powers Agreement with the Orange County Sheriff's Department

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

JOINT POWERS AGREEMENT
BETWEEN THE
COUNTY OF ORANGE
AND
City of Manhattan Beach

THIS AGREEMENT is entered into this First day of June, 2011 which date is enumerated for purposes of reference only, by and between the COUNTY OF ORANGE, a political subdivision of the State of California, hereinafter referred to as "COUNTY" and City of Manhattan Beach, a governmental entity located outside the County of Orange, hereinafter referred to as "CONTRACTOR."

WITNESSETH:

WHEREAS, COUNTY has the authority, exercised through its Sheriff, to perform forensic analysis and consultations in investigating criminal activity;

WHEREAS, CONTRACTOR has the authority, exercised through its Chief of Police, (hereinafter referred to as CHIEF LAW ENFORCEMENT OFFICER) to perform similar forensic analysis and consultations;

WHEREAS, CONTRACTOR wishes to contract with COUNTY for said analyses and consultations;

WHEREAS, COUNTY is agreeable to the rendering of such services on the terms and conditions hereinafter set forth;

WHEREAS, COUNTY'S Board of Supervisors, by Resolution Number 02-133, has authorized COUNTY'S Sheriff-Coroner, Assistant Sheriff of Investigations/Communications and Director or Assistant Director of Forensic Sciences Services Division (hereinafter referred to as "SHERIFF") to execute agreements of this type on behalf of COUNTY;

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TABLE OF CONTENTS

<u>SECTION</u>	<u>PAGE</u>
A. Term	3
B. Optional Termination	3
C. Disposition Of Property Upon Termination	3
D. Services by COUNTY	3
E. Payment	4
F. Notices	6
G. Status of COUNTY AND CONTRACTOR	7
H. Alteration of Terms	7
I. Indemnification	7
Signature Page	9

//
//
//
//
//
//
//
//
//
//
//
//
//
//
//
///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

A. TERM:

The term of this Agreement shall be the period June 16th, 2011 through June 16th, 2016, unless earlier terminated by either party in the manner set forth herein.

B. OPTIONAL TERMINATION:

COUNTY or CONTRACTOR may terminate this Agreement, without cause, upon fourteen (14) days written notice to the other party.

C. DISPOSITION OF PROPERTY UPON TERMINATION:

If, at the time this Agreement terminates, COUNTY has in its possession items submitted for examination or other evidence provided by CONTRACTOR on which COUNTY has not yet completed forensic analysis, COUNTY shall return said items submitted for examination or other evidence to CONTRACTOR.

D. SERVICES BY COUNTY:

1. COUNTY'S SHERIFF shall administer this Agreement.

At his sole discretion, COUNTY'S SHERIFF, through his Forensic Sciences Services Division, shall render to CONTRACTOR the following forensic analysis and consultation services as requested by CONTRACTOR'S CHIEF LAW ENFORCEMENT OFFICER:

Manhattan Beach PD Report Number 11-1651 , 211

- 1. Sample, extract and type two ski masks found in suspect's vehicle (suspects fled). Enter suitable profiles into CODIS.

Total estimated hours: 14 hours

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

D. SERVICES BY COUNTY (continued)

2. COUNTY'S SHERIFF shall provide all manpower, supervision, training, services, supplies and equipment necessary to perform the analysis and consultation services as required in this Agreement.

3. COUNTY'S SHERIFF shall provide CONTRACTOR with written forensic analysis results within the following time periods after receipt of samples or evidence for analysis:

A report will be issued 30 days after the receipt of the evidence.

Court testimony required in connection with or pertaining to any forensic analysis and/or consultation will be provided by COUNTY, as agreed by COUNTY'S SHERIFF and CONTRACTOR'S CHIEF LAW ENFORCEMENT OFFICER.

E. PAYMENT:

1. CONTRACTOR agrees to pay to the COUNTY the costs of performing the services mutually agreed upon in this Agreement. The cost of service will be an hourly rate that includes: salaries, wages, benefits, services, supplies, equipment, and divisional, department and County General overhead. If court testimony is requested, the cost shall be a charge to CONTRACTOR in addition to the charge for forensic analysis and/or consultation.

2. The hourly rate charged to the CONTRACTOR shall be computed by the ORANGE COUNTY SHERIFF-CORONER in accordance with salaries, wages, benefits, services, supplies, equipment, and divisional, department and County General overhead rates in effect at the time the services are provided.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PAYMENT (Continued)

- 3. COUNTY shall invoice CONTRACTOR monthly for services provided in the preceding month.
- 4. CONTRACTOR shall pay COUNTY for forensic analyses and consultations in accordance with COUNTY Billing Policy, a copy of which is attached hereto as Attachment A and incorporated herein by reference. COUNTY shall charge CONTRACTOR late payment penalties in accordance with said COUNTY Billing Policy.
- 5. If testimony is requested or required by a COUNTY employee, in connection with or pertaining to a forensic analysis and/or consultation, CONTRACTOR shall pay COUNTY no later than ten (10) days prior to the first day on which it is anticipated the COUNTY employee will testify. Said initial payment shall be at the county rate in effect at the time of request multiplied by the estimated number of hours the COUNTY witness spends to appear and testify. At the conclusion of the testimony, CONTRACTOR shall reimburse COUNTY for the full cost to COUNTY of having the witness testify, including:
 - a. The full cost of the witness' round trip travel between COUNTY and the place of testimony.
 - b. The full cost of the witness' salary and benefits while travelling and staying in the area where he/she is to testify.
 - c. The full cost of the witness' meals and lodging while travelling to and from and staying in the area where he/she will testify.
 - d. COUNTY'S indirect costs as calculated by the County Auditor-Controller and SHERIFF'S staff.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

e. Any other expenses that may be incurred by COUNTY or the witness in connection with the witness' testimony.

6. CONTRACTOR shall pay COUNTY the balance of the cost for the testimony of the COUNTY witness within thirty (30) days after the billing date on the invoice.

F. NOTICES:

1. Except for the notices provided for in Subsection 2 of this Section, all notices authorized or required by this Agreement shall be effective when written and deposited in the United States mail, first class postage prepaid and addressed as follows:

COUNTY: ATTN: OC CRIME LAB DNA DIRECTOR
 SHERIFF-CORONER DEPARTMENT
 320 NORTH FLOWER ST
 SANTA ANA CA 92703

CONTRACTOR: City of Manhattan Beach

420 15th Street

Manhattan Beach, CA 90266

NOTICES (continued)

2. Termination notices shall be effective when written and deposited in the United States mail, certified, return receipt requested and addressed as above.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

STATUS OF COUNTY AND CONTRACTOR:

COUNTY is, and shall at all times be deemed to be, an independent contractor. Nothing herein contained shall be construed as creating the relationship of employer and employee or principal and agent between CONTRACTOR and COUNTY or any of COUNTY's agents or employees. COUNTY, its agents and employees shall not be entitled to any rights or privileges of CONTRACTOR employees and shall not be considered in any manner to be CONTRACTOR employees.

CONTRACTOR is, and shall at all times be deemed to be, an independent contractor. Nothing herein contained shall be construed as creating the relationship of employer and employee or principal and agent between COUNTY and CONTRACTOR or any of CONTRACTOR'S agents or employees. CONTRACTOR, its agents and employees shall not be entitled to any rights or privileges of COUNTY employees and shall not be considered in any manner to be COUNTY employees.

H. ALTERATION OF TERMS:

This Agreement fully expresses all understanding of CONTRACTOR and COUNTY with respect to the subject matter of this Agreement and shall constitute the total Agreement between the parties for these purposes. No addition to, or alteration of, the terms of this Agreement shall be valid unless made in writing, formally approved and executed by duly authorized agents of both parties.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I. INDEMNIFICATION:

COUNTY, its officers, agents, employees, and independent contractors shall not be deemed to have assumed any liability for the negligence or any other act or omission of CONTRACTOR or any of its officers or employees.

CONTRACTOR shall indemnify and hold COUNTY, its officers, agents, employees and independent contractors free and harmless from any claim or liability whatsoever based or asserted upon any act or omission of CONTRACTOR, its officers, agents, employees, and independent contractors related to this Agreement, for property damage, bodily injury or death or any other element of damage of any kind or nature, and CONTRACTOR shall defend at its expense, including attorney fees, COUNTY, its officers, agents, employees and independent contractors in any legal action or claim of any kind based upon such alleged acts or omissions.

COUNTY shall indemnify and hold CONTRACTOR, its officers, agents employees and independent contractors, free and harmless from any claim or liability whatsoever, based or asserted upon any act or omission of COUNTY, its officers, agents employees, and independent contractors related to this Agreement, for property damage, bodily injury or death, or any other element of damage of any kind or nature, and COUNTY shall defend, at its expense, including attorney fees, CONTRACTOR, its officers, agents, employees and independent contractors in any legal action or claim of any kind based upon such alleged acts or omissions.

//

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN WITNESS WHEREOF, the parties have executed the AGREEMENT
in the County of Orange, State of California.

DATED: _____

BY: _____
"CONTRACTOR"

DATED: 6/16/11

COUNTY OF ORANGE

BY: [Signature]

TITLE: DNA Lab Director

APPROVED AS TO FORM:
Benjamin P. de Mayo, County Counsel
Orange County, California

BY: [Signature]
Deputy

4/15/02

4/18/11

APPROVED AS TO FORM:

BY: [Signature]
City Attorney

11