



Agenda Item #: _____



Staff Report

City of Manhattan Beach

TO: Honorable Mayor Tell and Members of the City Council

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

FROM: Eve R. Irvine, Chief of Police
Derrick Abell, Captain

DATE: August 2, 2011

SUBJECT: Consideration of a Professional Services Agreement to Provide Police Management Services in an Amount Not to Exceed \$40,000.

RECOMMENDATION:

Staff recommends that the City Council authorize the City Manager to award a Professional Services Agreement.

FISCAL IMPLICATION:

There are sufficient salary savings due to the vacancies at the Police Department to cover this cost.

BACKGROUND:

In March, due to a number of personnel issues occurring within the Police Department, there was an urgent need to move personnel into critical places of supervision to ensure safe levels of management within Patrol and the Administrative Division. In an effort to address the immediate management and supervisory void in the organization at the Administrative Lieutenant position, the Police Department researched the possibility of hiring someone on a temporary basis that could seamlessly fill in part-time until personnel issues stabilize at the Police Department. A professional services agreement for a part-time Administrative Lieutenant was approved in order to meet the Police Department's immediate needs.

The retired Lieutenant was able to step right in and fill the necessary management and supervisory void, which is crucial to the operation of the Police Department.

DISCUSSION:

One full-time police Lieutenant is still on extended leave and there is no projected date of return. Staff recommends that a retired Police Lieutenant continue to fill the Department's management and administrative needs on a part-time, contract basis until staffing reverts back to normal.

The California Public Employees Retirement System (CalPERS) allows cities to hire retired employees for temporary employment as "retired annuitants" as long as the employee does not work in excess of 960 hours per fiscal year and the salary is no less or greater than that of

employees performing comparable duties. The employee would draw salary only, with no benefits, resulting in substantial salary savings to the City. The “retired annuitant” program is not new to the City of Manhattan Beach. The City has hired retired employees into other part-time positions when the retirees' specialized skills were needed by the City to perform work for limited periods of time. The part-time contract employee would remain under the maximum number of hours (960) allowed under the CalPERS retirement program.

The retired Lieutenant would work under a City contract at an hourly rate of \$63.60 per hour, commensurate with the position and level of experience. The hours of this position would be flexible and limited to approximately 20-30 hours per week.

CONCLUSION:

Staff recommends that the City Council authorize the City Manager to award a professional services agreement in an amount not to exceed \$40,000.

Attachment(s):

Attachment A – Professional Services Agreement

AGREEMENT

THIS AGREEMENT is made this 15th day of July, 2011, by the CITY OF MANHATTAN BEACH, a municipal corporation, ("CITY"), and _____, an individual, ("CONTRACTOR").

RECITALS

The following recitals are a substantive part of this Agreement:

1. City is desirous of obtaining professional services to fulfill the administrative duties of the Police Lieutenant position.
2. CONTRACTOR is qualified by virtue of experience, training, education, and expertise to accomplish these services.

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Term of Agreement.** This Agreement shall have a term of six month unless earlier terminated as provided below. This agreement may also be extended by mutual agreement of the parties hereto.

1.1 **Termination.** CITY and CONTRACTOR shall have the right to terminate this Agreement, without cause, by giving three (3) days written notice. Upon receipt of a termination notice, CONTRACTOR shall:

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

2. **Services to be Provided.** The services to be performed by CONTRACTOR shall consist of the following: CONTRACTOR shall conduct the essential administrative job functions and responsibilities of a Police Lieutenant, including policy development and management of administrative services. These essential job functions are intended as illustrations of the various types of work that may be

performed. The omission of specific statement of duties does not exclude them from the position if the work is similar, related, or a logical assignment to the position.

The CONTRACTOR shall provide approximately 20-30 hours of service per week with flexibility to the number of work hours depending on the tasks at hand. The CONTRACTOR shall hold weekly meetings with the Police Captain or Chief of Police to provide an update on related projects and seek direction on future work.

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

3.1 **Amount.** City agrees to pay Consultant the hourly rate of \$63.60 for compensation, for all services provided under this contract through December 31, 2011, not to exceed \$40,000.

3.2 **Payment.** For work under this Agreement, payment shall be made to coincide with the City bi-weekly payroll.

3.3 **Expenses.** CONTRACTOR shall not be entitled to any additional compensation for expenses.

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

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

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

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

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

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

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

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

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

a. Address of CONTRACTOR is as follows:

b. Address of CITY is as follows:

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

(with a copy to):

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

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

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

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

14. **Limitations Upon Subcontracting and Assignment.** Neither this Agreement, nor any portion, shall be assigned by CONTRACTOR without prior written consent of CITY.

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

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

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

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

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


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

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

CONTRACTOR

By _____

CITY OF MANHATTAN BEACH

By David N. Carmany 

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney