

**City Council**  
**Regular Meeting**  
**Tuesday, June 2, 2015**  
**6:00 PM**  
**City Council Chambers**

**5:30 PM Adjourned Regular Meeting - Closed Session**



**Mayor Wayne Powell**  
**Mayor Pro Tem Mark Burton**  
**Councilmember Tony D'Errico**  
**Councilmember David J. Lesser**  
**Councilmember Amy Howorth**

Executive Team

Mark Danaj, City Manager  
Quinn Barrow, City Attorney

Robert Espinosa, Fire Chief  
Captain Derrick Abell, Acting Human Resources Director  
Eve R. Irvine, Police Chief  
Mark Leyman, Parks & Recreation Director  
Bruce Moe, Finance Director

Nadine Nader, Assistant City Manager  
Tony Olmos, Public Works Director  
Liza Tamura, City Clerk  
Marisa Lundstedt, Community  
Development Director

**MISSION STATEMENT:**

**The City of Manhattan Beach is dedicated to providing exemplary municipal services, preserving our small beach town character and enhancing the quality of life for our residents, businesses and visitors.**

June 2, 2015

City Council Meeting Agenda Packet

<b>Agenda Item No.</b>	<b>Starting Page</b>	<b>Ending Page</b>
AGENDA	1	12
1	13	14
2	15	16
3	17	18
4	19	22
5	23	34
6	35	36
7	37	56
8	57	58
9	59	1894
10	1895	1900
11	1901	1924
12	1925	1952
13	1953	2016
14	2017	2082
15	2083	2152
16	2153	2154
17	2155	2304
18	2305	2320
19	2321	2360

**MANHATTAN BEACH'S CITY COUNCIL WELCOMES YOU!**

*Your presence and participation contribute to good city government.*

*By your presence in the City Council Chambers, you are participating in the process of representative government. To encourage that participation, the City Council has specified two additional times for public comments on the agenda--under "Community Announcements Regarding Upcoming Events," at which time the public may address the City Council regarding any upcoming events for up to one minute in duration for any speaker; and again under "Public Comment on Non-Agenda Items," at which time speakers may comment on any item of interest to the public that is within the subject matter jurisdiction of the legislative body, not including items on the agenda, for up to three minutes for each speaker. Estimated times have been placed under each heading to assist with meeting management. Please note that these times are merely an estimate.*

*Please note that each speaker may speak for up to 15 minutes at any one Council meeting, with additional time during public hearings.*

*Copies of staff reports or other written documentation relating to each item of business referred to on this agenda are available for review on the City's website at [www.citymb.info](http://www.citymb.info), the Police Department located at 420 15th Street, and are also on file in the Office of the City Clerk for public inspection. Any person who has any question concerning any agenda item may call the City Clerk's office at (310) 802-5056.*

*In compliance with the Americans With Disabilities Act, if you need special assistance to participate in this meeting, you should contact the Office of the City Clerk at (310) 802-5056 (voice) or (310) 546-3501 (TDD). Notification 36 hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to this meeting.*

**BELOW ARE THE AGENDA ITEMS TO BE CONSIDERED. THE RECOMMENDED COUNCIL ACTION IS LISTED IMMEDIATELY AFTER THE TITLE OF EACH ITEM IN BOLD CAPITAL LETTERS.****A. PLEDGE TO THE FLAG**

*Meadows Elementary School*

*5 MINUTES*

**B. NATIONAL ANTHEM**

*Manhattan Beach Middle School Choir*

*5 MINUTES*

**C. ROLL CALL**

*1 MINUTE*

**D. CERTIFICATION OF MEETING NOTICE AND AGENDA POSTING**

*1 MINUTE*

*I, Liza Tamura, City Clerk of the City of Manhattan Beach, California, state under penalty of perjury that this notice/agenda was posted on Wednesday, May 27, 2015, on the City's Website and on the bulletin boards of City Hall, Joslyn Community Center and Manhattan Heights.*

**E. APPROVAL OF AGENDA AND WAIVER OF FULL READING OF ORDINANCES**

5 MINUTES

*By motion of the City Council this is the time to notify the public of any changes to the agenda and/or rearrange the order of the agenda.*

**F. CEREMONIAL CALENDAR**

30 MINUTES

1. Presentation of a Certificate of Recognition to “Londoner Salon and Blowdry Lounge” and “Peroxide Beauty and Barbershop” for Outstanding Community Service in Providing Free Haircuts to Over 100 Men, Women and Children at the “First Annual Free Haircut Day” at the Richstone Family Center. [15-0237](#)  
**PRESENT**
2. Presentation of Commendations to the Presidential Volunteer Service Award Recipients. [15-0238](#)  
**PRESENT**
3. Presentation of Certificates of Recognition to the Manhattan Beach Little League All-Stars. [15-0273](#)  
**PRESENT**

**G. CITY MANAGER REPORT**

5 MINUTES

**H. CITY ATTORNEY REPORT**

5 MINUTES

**I. CITY COUNCIL ANNOUNCEMENTS AND REPORTS**

5 MINUTES PER CITY COUNCILMEMBER FOR TOTAL OF 25 MINUTES

**J. COMMUNITY ANNOUNCEMENTS REGARDING UPCOMING EVENTS**

1 MINUTE PER PERSON

*This portion of the meeting is to provide an opportunity for citizens to address the City Council regarding upcoming events. The duration for an individual speaking under "Community Announcements Regarding Upcoming Events" is limited to one minute. A second, extended opportunity to speak is provided under "Public Comment on Non-Agenda Items." While all comments are welcome, the Brown Act does not allow City Council to take action on any item not on the agenda, except under very limited circumstances. Please complete the "Request to Address the City Council" card by filling out your name, city of residence, and returning it to the City Clerk. Thank you!*

## K. PUBLIC COMMENT ON NON-AGENDA ITEMS

3 MINUTES PER PERSON - 30 MINUTES MAXIMUM

Speakers may comment on any item of interest to the public that is within the subject matter jurisdiction of the legislative body, not including items on the agenda. The Mayor may determine whether an item is within the subject matter jurisdiction of the City. While all comments are welcome, the Brown Act does not allow City Council to take action on any item not on the agenda, except under very limited circumstances. Please complete the "Request to Address the City Council" card by filling out your name, city of residence, and returning it to the City Clerk.

## L. CONSENT CALENDAR

5 MINUTES

NOTICE TO THE PUBLIC - The items on the "Consent Calendar" are routine and customary business items and will be enacted with one vote. The Mayor will ask the public, the City Councilmembers and the staff if there is anyone who wishes to remove any item from the "Consent Calendar" for public comment, discussion and consideration. The matters removed from the "Consent Calendar" will be considered individually at the end of this Agenda under "Items Removed from the Consent Calendar." At that time, any member of the audience may comment on any item pulled from the "Consent Calendar." The entire "Consent Calendar," with the exception of items removed to be discussed under "Items Removed from the Consent Calendar," is then voted upon by roll call under one motion, after the Mayor has invited the public to speak.

4. Introduce an Amendment to the Municipal Code Section 4.48.090 - [ORD 15-0013](#)  
 Limited Alcoholic Beverage Use on Public Property - Special Permit -  
 Ordinance 15-0013, requiring that the permit provides a public benefit to  
 the community, First Reading. (Parks and Recreation Director Leyman).  
**INTRODUCE ORDINANCE NO. 15-0013**  
Attachments: [Ordinance No. 15-0013](#)
  
5. Adopt Ordinance No. 15-0008 which will revise *Title 7 - Public Works,*  
*Chapter 7.44 - Water Conservation* of the Manhattan Beach Municipal  
 Code (Public Works Director Olmos). [ORD 15-0008](#)  
**ADOPT**  
Attachments: [Ordinance No. 15-0008](#)
  
6. Declare Vacant the Parking and Public Improvements Commission [15-0274](#)  
 Business Community Seat No. 2 (Apostol) (City Clerk Tamura).  
**DECLARE VACANCY, CONDUCT PUBLIC OUTREACH**
  
7. Renewal of Five Year Professional Services Agreement with HdL, Coren [15-0190](#)  
 & Cone to Provide Property Tax Reporting, Analytic and Audit Services  
 for an Estimated Cost of \$60,500 (Finance Director Moe).  
**APPROVE**  
Attachments: [Agreement for Property Tax Consulting and Audit Services](#)

- 
8. Purchase of One Budgeted Dial-A-Ride Paratransit Van from Nations Bus in the Amount of \$68,944.39 Using AB 2766 (Motor Vehicle Registration Fee) Subvention Funds (Parks and Recreation Director Leyman). [15-0221](#)  
**WAIVE FORMAL BIDDING; APPROVE**
9. Review Draft Enhanced Watershed Management Program (EWMP) and Authorize the City Manager to Submit the Draft EWMP to the Los Angeles Regional Water Quality Control Board (Public Works Director Olmos). [15-0265](#)  
**AUTHORIZE REPORT SUBMITTAL**  
**Attachments:** [Figure 1 - Beach Cities Jurisdictional Areas](#)  
[Attachment 1 - Draft EWMP Executive Summary](#)  
[Table 1 - Implementation Schedule](#)  
[Attachment 2-Draft EWMP Appendix](#)
10. Award Contract to Provide and Install Refurbished Modular Office Furniture to Concept Consultant, Inc. for an Amount Not-to-Exceed \$27,820 (Public Works Director Olmos). [CON 15-0028](#)  
**APPROVE**  
**Attachments:** [Contract Agreement](#)
11. Consideration of the Parking and Pubic Improvement Commission's Recommendation to Approve a Long-Term Commercial Use Encroachment Permit for Two Eave Mounted Patio Heaters in the Public Right-of-Way at 124 Manhattan Beach Boulevard (BREWCO) (Community Development Director Lundstedt). [15-0207](#)  
**APPROVE**  
**Attachments:** [PPIC Draft Minutes - April 23, 2015](#)  
[PPIC Staff Report and Attachments - April 23, 2015](#)

---

**12. Minutes:** [15-0017](#)

This Item Contains Action Minutes of City Council Meetings which are Presented for Approval. Staff Recommends that the City Council, by Motion, Take Action to Approve the Action Minutes of the:

- a) City Council Adjourned Regular Meeting-Budget Study Session #2 of May 11, 2015
  - b) City Council Regular Meeting of May 19, 2015
  - c) City Council Adjourned Regular Meeting-Budget Study Session #3 of May 21, 2015
- (City Clerk Tamura).

**APPROVE**

**Attachments:** [City Council Adjourned Regular Meeting-Budget Study Session #2 Minutes of M](#)  
[City Council Regular Meeting Minutes of May 19, 2015](#)  
[City Council Adjourned Regular Meeting-Budget Study Session #3 Minutes of M](#)

## M. PUBLIC HEARINGS

30 MINUTES PER ITEM

**13. Consideration of Amendments to the Municipal Code to Include a Council Review Procedure for Quasi-Judicial Decisions and Modernizing Chapter 10.100 (Appeals), and Amending Chapter 10.12 (Residential Districts) and Related Municipal Code Sections Regarding Commercial and Transient Uses in Residential Zones (Community Development Director Lundstedt).** [ORD 15-0009](#)

**CONDUCT PUBLIC HEARING, INTRODUCE ORDINANCE NO.15-0009**

**Attachments:** [Ordinance No. 15-0009](#)  
[MBMC Legislative Digest Showing the Proposed Amendments](#)  
[Current MBMC Chapter 10.100 - Appeals](#)  
[Current MBMC Section 10.12.020](#)  
[Planning Commission Resolution No. PC 15-03](#)  
[5-13-15 Planning Commission Staff Report & Attachments](#)  
[5-13-15 Planning Commission Draft Minutes](#)  
[Survey of Short Term Rental Regulations](#)

- 
14. Consideration of Amendments to the Local Coastal Program (LCP) to Include a Council Review Procedure for Quasi-Judicial Decisions and Modernizing Chapter A.96.160 (Appeals), and Amending Chapter A.12 (Residential Districts) and Related LCP Sections Regarding Commercial and Transient Uses in Residential Zones (Community Development Director Lundstedt).  
**CONDUCT PUBLIC HEARING, INTRODUCE ORDINANCE NO. 15-0010**

[ORD 15-0010](#)

**Attachments:** [Ordinance No. 15-0010](#)  
[LCP Legislative Digest Showing the Proposed Amendments](#)  
[Current LCP Section A.96.160 - Appeals](#)  
[Current LCP Section A.12.020](#)  
[Planning Commission Resolution No. PC 15-03](#)  
[5-13-15 Planning Commission Staff Report & Attachments](#)  
[5-13-15 Planning Commission draft minutes](#)  
[Survey of Short-Term Rental Regulations](#)

## N. GENERAL BUSINESS

30 MINUTES PER ITEM

15. Consideration of Nikau Kai Waterman Shop and Hermosa Cyclery to Provide Beach Concessions and a Welcome/Information Center in the Sand Lot South of the Lower South Pier Parking Lot (Continued from 5-26-15 Budget Study Session #4 City Council Meeting) (Parks and Recreation Director Leyman).  
**APPROVE**

[15-0281](#)

**Attachments:** [Beach Concessions Proposed Agreement](#)  
[Proposed Site Plan](#)  
[Nikau Kai Waterman Shop Proposal](#)  
[Hermosa Cyclery Proposal](#)  
[Perfect Day Surf Camp Proposal](#)  
[Camp Surf Proposal](#)  
[Request for Quotations for Beach Concessions](#)

16. Final Review and Direction for the Fiscal Year 2015-2016 Budget Prior to Adoption (Finance Director Moe).  
**DISCUSS AND PROVIDE DIRECTION**

[15-0202](#)



- 
17. Presentation of Draft Urban Forest Master Plan (Public Works Director Olmos).

[15-0259](#)

**RECEIVE REPORT AND PROVIDE DIRECTION**

**Attachments:** [Draft Urban Forest Master Plan](#)  
[Resource Analysis](#)  
[Draft Plant Palette](#)  
[Municipal Code Markup](#)

**O. ITEMS REMOVED FROM THE CONSENT CALENDAR**

5 MINUTES PER ITEM

*Prior to the Council's consideration of each item removed from the consent calendar, speakers may comment on any or all of those items for up to three minutes per item.*

**P. OPTIONAL ADDITIONAL PUBLIC COMMENTS ON NON-AGENDA ITEMS**

*For speakers who did not speak at the first "Public Comment" period because the 30 minute time limit was reached.*

3 MINUTES PER PERSON

**Q. OTHER COUNCIL BUSINESS, COMMITTEE AND TRAVEL REPORTS, FUTURE DISCUSSION ITEMS**

5 MINUTES PER CITY COUNCILMEMBER FOR TOTAL OF 25 MINUTES

**R. RECEIVE AND FILE ITEMS**

*The following items are informational items that do not require action by the City Council. They can be "Received and Filed" by one motion: "Motion to Receive and File" or by order of the Chair.*

*The Mayor will provide a maximum of three minutes for speakers to comment on this category.*

**18. Minutes:** [15-0270](#)

This Item Contains Minutes of City Commission Meetings. Staff Recommends that the City Council, by Motion, Take Action to Receive and File the Minutes of the:

- a) Parking and Public Improvements Commission Meeting of April 23, 2015 (Continued from the 5-19-15 City Council Meeting) (Community Development Director Lundstedt).
- b) Planning Commission Meeting of May 13, 2015 (Community Development Director Lundstedt).
- c) Parks and Recreation Commission Meeting of May 18, 2015 (Parks and Recreation Director Leyman).

**RECIEVE AND FILE**

**Attachments:** [Draft Parking and Public Improvements Commission Minutes of April 23, 2015](#)

[Planning Commission Action Minutes of May 13, 2015](#)

[Parks and Recreation Commission Minutes of May 18, 2015](#)

**19. Financial Report:** [15-0254](#)

Schedule of Demands: May 7, 2015 (Finance Director Moe).

**RECEIVE AND FILE**

**Attachments:** [Schedule of Demands Register for May 7, 2015](#)

**S. ADJOURNMENT****T. FUTURE MEETINGS****CITY COUNCIL MEETINGS**

*Jun. 16, 2015 – Tuesday -- 6:00 PM - City Council Meeting*  
*Jul. 7, 2015 – Tuesday -- 6:00 PM - City Council Meeting/Reorganization*  
*Jul. 21, 2015 – Tuesday -- 6:00 PM - City Council Meeting*  
*Aug. 4, 2015 – Tuesday -- 6:00 PM - City Council Meeting*  
*Aug. 18, 2015 – Tuesday -- 6:00 PM - City Council Meeting*  
*Sep. 1, 2015 – Tuesday -- 6:00 PM - City Council Meeting*  
*Sep. 15, 2015 – Tuesday -- 6:00 PM - City Council Meeting*  
*Oct. 6, 2015 – Tuesday -- 6:00 PM - City Council Meeting*  
*Oct. 20, 2015 – Tuesday -- 6:00 PM - City Council Meeting*  
*Nov. 3, 2015 – Tuesday -- 6:00 PM - City Council Meeting*  
*Nov. 17, 2015 – Tuesday -- 6:00 PM - City Council Meeting*  
*Dec. 1, 2015 – Tuesday -- 6:00 PM - City Council Meeting*  
*Dec. 15, 2015 – Tuesday -- 6:00 PM - City Council Meeting*

**BOARDS, COMMISSIONS AND COMMITTEE MEETINGS**

*June 8, 2015 – Monday – 6:30 PM – Library Commission Meeting*  
*June 9, 2015 – Tuesday – 6:30 PM – Cultural Arts Commission Meeting*  
*June 10, 2015 – Wednesday – 6:30 PM – Planning Commission Meeting*  
*June 22, 2015 – Monday – 6:30 PM – Parks and Recreation Commission Meeting*  
*June 24, 2015 – Wednesday – 6:30 PM – Planning Commission Meeting*  
*June 25, 2015 – Thursday – 6:30 PM -- Parking & Public Improvements Commission Meeting*  
*July 8, 2015 – Wednesday – 6:30 PM – Planning Commission Meeting*  
*July 13, 2015 – Monday – 6:30 PM – Library Commission Meeting*  
*July 14, 2015 – Tuesday – 6:30 PM – Cultural Arts Commission Meeting*  
*July 22, 2015 – Wednesday – 6:30 PM – Planning Commission Meeting*  
*July 23, 2015 – Thursday – 6:30 PM -- Parking & Public Improvements Commission Meeting*  
*July 27, 2015 – Monday – 6:30 PM – Parks and Recreation Commission Meeting*  
*August 10, 2015 – Monday – 6:30 PM – Library Commission Meeting*  
*August 11, 2015 – Tuesday – 6:30 PM – Cultural Arts Commission Meeting*  
*August 24, 2015 – Monday – 6:30 PM – Parks and Recreation Commission Meeting*  
*September 14, 2015 – Monday – 6:30 PM – Library Commission Meeting*  
*September 15, 2015 – Tuesday – 6:30 PM – Cultural Arts Commission Meeting*  
*September 28, 2015 – Monday – 6:30 PM – Parks and Recreation Commission Meeting*

**U. CITY HOLIDAYS****CITY OFFICES CLOSED ON THE FOLLOWING DAYS:**

*Jul. 3, 2015 - Friday - Independence Day*  
*Sep. 7, 2015 – Monday – Labor Day*  
*Oct. 12, 2015 – Monday – Columbus Day*  
*Nov. 11, 2015 – Wednesday – Veterans Day*  
*Nov. 26-27, 2015 – Thursday & Friday – Thanksgiving Holiday*  
*Dec. 25, 2015 – Friday – Christmas Day*  
*Jan. 1, 2016 – Friday – New Years Day*  
*Jan. 18, 2016 – Monday – Martin Luther King Day*  
*May 30, 2016 – Monday – Memorial Day*



**Agenda Date:** 6/2/2015

---

**TO:**

Members of the City Council

**FROM:**

Mayor Powell

**SUBJECT:**

Presentation of a Certificate of Recognition to “Londoner Salon and Blowdry Lounge” and “Peroxide Beauty and Barbershop” for Outstanding Community Service in Providing Free Haircuts to Over 100 Men, Women and Children at the “First Annual Free Haircut Day” at the Richstone Family Center.

**PRESENT**

---

**The City Council of the City of Manhattan Beach  
Does Hereby Proudly Recognize  
“Londoner Salon and Blowdry Lounge”  
and “Peroxide Beauty and Barbershop”  
For  
Excellent Community Service in  
Providing Charity Haircuts**



**Agenda Date:** 6/2/2015

---

**TO:**

Members of the City Council

**FROM:**

Mayor Powell

**SUBJECT:**

Presentation of Commendations to the Presidential Volunteer Service Award Recipients.

**PRESENT**

---

**The City Council of the City of Manhattan Beach  
Does Hereby Proudly Recognize  
the Recipients of the  
Presidential Volunteer Service Award**





**Agenda Date:** 6/2/2015

---

**TO:**

Members of the City Council

**FROM:**

Mayor Powell

**SUBJECT:**

Presentation of Certificates of Recognition to the Manhattan Beach Little League All-Stars.

**PRESENT**

---

**The City Council of the City of Manhattan Beach  
Does Hereby Proudly Recognize  
The Manhattan Beach Little League All-Stars:**

Joey Acosta  
Garrett Auville  
Merrick Baldo  
Dylan Dennis  
Jake Gordon  
Nick Locke Henderson  
Logan Kane  
Sean McDonald  
Nathan Nykaza  
Chris Penna  
Wyatt Robb  
Nick Solan  
Jesse Storey

Coaches: Matt Sugarman, Jackson Morrow

Manager: Keith Ramsey



**Agenda Date:** 6/2/2015

---

**TO:**

Honorable Mayor and Members of the City Council

**THROUGH:**

Mark Danaj, City Manager

**FROM:**

Mark Leyman, Parks and Recreation Director  
Quinn Barrow, City Attorney

**SUBJECT:**

Introduce an Amendment to the Municipal Code Section 4.48.090 - Limited Alcoholic Beverage Use on Public Property - Special Permit - Ordinance 15-0013, requiring that the permit provides a public benefit to the community, First Reading. (Parks and Recreation Director Leyman).

**INTRODUCE ORDINANCE NO. 15-0013**

---

**RECOMMENDATION:**

Staff recommends that the City Council approve an amendment to the Municipal Code Section 4.48.090 - Limited alcoholic beverage use on public property - Special permit - Ordinance 15-0013, requiring that the permit provides a public benefit to the community, first reading.

**FISCAL IMPLICATIONS:**

There are no direct fiscal implications associated with this item.

**BACKGROUND:**

City Council directed staff to return with an update to the municipal code regarding alcoholic beverages, to reflect a community benefit for special events on public property.

**DISCUSSION:**

Staff evaluated the current municipal code and is proposing an amendment to the language. The current alcohol ordinance 4.48.090 states:

Notwithstanding the other prohibitions of this chapter, the Council may grant special permits for the sale or consumption of wine or beer at special functions or activities in the City of Manhattan Beach, including the Manhattan Beach Pier, but excluding the remainder of the public beach, subject to the recommendations of the Chief of Police. Any such permit with

the sale of beer or wine shall also be subject to the license requirements of the Alcoholic Beverage Control Act of the State.

The proposed language would read:

“Notwithstanding the other prohibitions of this chapter, the Council may grant special permits for the sale or consumption of wine or beer at special functions or activities in the City of Manhattan Beach, if there is a public benefit to the community, including the Manhattan Beach Pier, but excluding the remainder of the public beach, subject to the recommendations of the Chief of Police. Any such permit with the sale of beer or wine shall also be subject to the license requirements of the California Department of Alcoholic Beverage Control.”

Updating the ordinance to include a public benefit to the community will provide boundaries for the City Council’s discretion when considering permits in the future. Examples could include, but not be limited to events such as: the Girls Night Out, Manhattan Beach Open, Hometown Fair, Concerts in the Park and Art Gallery Exhibition openings. Each of these events provides community benefits such as: supporting economic development, the Manhattan Beach Unified School District, Special Olympic World Games and Cultural Arts. The permitting process for alcoholic beverage use will not change. Each event will continue to be brought to the City Council for direction and final approval and follow the same process of obtaining an alcohol and beverage control license and subject to the final recommendation of the Police Chief.

**CONCLUSION:**

Staff recommends that the City Council approve municipal code Section 4.48.090 - Limited alcoholic beverage use on public property - Special permit - Ordinance 15-0013, first reading.

- Attachments:        1. Municipal Code Section 4.48.090 - Limited Alcoholic Beverage use on Public property - Special Permit - Ordinance 15-0013

ORDINANCE NO.15-0013

AN ORDINANCE OF THE CITY OF MANHATTAN BEACH  
AMENDING MUNICIPAL CODE SECTION 4.48.090  
REGARDING LIMITED ALCOHOLIC BEVERAGE USE ON  
PUBLIC PROPERTY

THE MANHATTAN BEACH CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:

SECTION 1.The City Council hereby amends Manhattan Beach Municipal Code Section 4.48.090 to read as follows:

4.48.090 -Limited alcoholic beverage use on public property—Special permit.

“Notwithstanding the other prohibitions of this chapter, the Council may grant special permits for the sale or consumption of wine or beer at special functions or activities in the City, if there is a public benefit to the community, including the Manhattan Beach Pier, but excluding the remainder of the public beach, subject to the recommendations of the Chief of Police. Any such permit with the sale of beer or wine shall also be subject to the license requirements of the California Department of Alcoholic Beverage Control.”

SECTION 2.The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause this Ordinance to be published within 15 days after its passage, in accordance with Section 36933 of the Government Code.

SECTION 3. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the 31st day after its passage.

PASSED, APPROVED AND ADOPTED \_\_\_\_\_, 2015.

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
WAYNE POWELL  
Mayor

ATTEST:

---

LIZA TAMURA  
City Clerk

APPROVED AS TO FORM:

---

QUINN M. BARROW  
City Attorney

**Agenda Date:** 6/2/2015

---

**TO:**

Honorable Mayor and Members of the City Council

**THROUGH:**

Mark Danaj, City Manager

**FROM:**

Tony Olmos, Public Works Director  
Raul Saenz, Utilities Manager

**SUBJECT:**

Adopt Ordinance No. 15-0008 which will revise *Title 7 - Public Works, Chapter 7.44 - Water Conservation* of the Manhattan Beach Municipal Code (Public Works Director Olmos).

**ADOPT**

---

**RECOMMENDATION:**

Staff recommends that the City Council waive further reading and adopt Ordinance No. 15-0008 which will revise *Title 7 - Public Works, Chapter 7.44 - Water Conservation* of the Manhattan Beach Municipal Code.

**BACKGROUND:**

At its May 19, 2015 meeting, City Council introduced this draft ordinance which revises *Title 7 - Public Works, Chapter 7.44 - Water Conservation* of the Manhattan Beach Municipal Code.

**DISCUSSION:**

Revision of *Title 7 - Public Works, Chapter 7.44 - Water Conservation* of the City of Manhattan Beach Municipal Code gives the City the legal authority within its jurisdiction to implement and enforce water conservation regulations.

**CONCLUSION:**

Staff recommends that the City Council adopt Ordinance No. 15-0008 which will revise *Title 7 - Public Works, Chapter 7.44 - Water Conservation* of the City of Manhattan Beach Municipal Code.

Attachment:

1. Ordinance No. 15-0008



ORDINANCE NO. 15-0008

AN ORDINANCE OF THE CITY OF MANHATTAN BEACH  
AMENDING CHAPTER 7.44 OF THE MANHATTAN BEACH  
MUNICIPAL CODE REGARDING WATER CONSERVATION

WHEREAS, on January 17, 2014, Governor Edmund G. Brown Jr. declared a state of emergency in California due to severe drought conditions and called on all Californians to reduce water usage by twenty percent.

WHEREAS, on April 25, 2014, Governor Brown issued an executive order finding that the continued drought conditions present urgent challenges and called for additional action to address the impacts of the drought.

WHEREAS, on July 15, 2014, the State Water Resources Control Board adopted emergency water conservation regulations (23 California Code of Regulations Section 865), which require urban water suppliers to implement certain water conservation measures in their water shortage contingency plans, including restrictions on outdoor irrigation.

WHEREAS, on March 17, 2015, the State Water Resources Control Board revised and extended the emergency water conservation regulations.

WHEREAS, on April 1, 2015, Governor Brown issued Executive Order B-29-15 that, among other things, directs the State Water Resources Control to impose restrictions to achieve a statewide 25 percent reduction in potable urban usage through February 2016.

WHEREAS, on May 5, 2015, the State Water Resources Control Board approved revised emergency water conservation regulations in order to implement Executive Order B-29-15.

WHEREAS, the City of Manhattan Beach ("City") is an urban water supplier, as defined in Water Code Section 10617, and is required to comply with the State Water Board's emergency water conservation regulations.

WHEREAS, the City has codified the water conservation measures in its water shortage contingency plan at Chapter 7.44 of the Manhattan Beach Municipal Code.

WHEREAS, the City Council wishes to have authority to implement and fairly enforce the water conservation measures identified in Chapter 7.44 of the Manhattan Beach Municipal Code as necessary to ensure a stable and reliable water supply for residents and businesses and to help the State address the ongoing drought.

THE MANHATTAN BEACH CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:

**Section 1.** The City Council hereby amends Chapter 7.44 (“Water Conservation”) of Title 7 (“Public Works”) of the Manhattan Beach Municipal Code in its entirety to read as follows:

**“7.44.010 – General prohibition.**

- A. No person shall cause, use, or permit the use of water from the City water system in a manner contrary to any provision of this Chapter.
- B. No person shall cause, use, or permit the use of water from the City water system in excess of any limit established by the City Council by resolution.

**7.44.020 – Permanent water conservation measures.**

The following water conservation requirements shall apply to all persons within the City of Manhattan Beach:

A. Landscape.

1. Watering Hours. No lawn or landscape area shall be spray irrigated between the hours of 9:00 a.m. and 6:00 p.m. on any day. This subsection shall not apply to any drip irrigation system, irrigation system maintenance, leak repair or new planting of low water usage plants or if reclaimed water is utilized as permitted by law.

2. Irrigation Overspray and Runoff. Water shall not spray or flow to any impermeable private or public surface, including but not limited to, walkways, driveways, sidewalks, alleys, streets, or storm drains.

3. Water Drift. No sprinklers, fountains or other water features shall be operated when winds are so high as to create water drift causing runoff or flow to any impermeable private or public surface, including, but not limited to, walkways, driveways, sidewalks, alleys, streets, or storm drains.

4. Over-Irrigation. It is prohibited to water or irrigate lawns, turf or other landscape beyond saturation causing runoff or flow to any impermeable private or public surface, including, but not limited to, walkways, driveways, sidewalks, alleys, streets, or storm drains.

5. Irrigation During/After a Rain Event. It is prohibited to water or irrigate any landscaping within 48 hours of a one-tenth of an inch (0.10") or greater rainfall event.

B. Cleaning. No person shall:

1. Use water to wash, clean or clear any sidewalks, streets, walkways, patios, driveways, alleys or parking areas, whether paved or unpaved, with a

hose connected to a domestic water source unless through use of a water broom or pressure washer.

2. Wash or clean with water any vehicle, including, but not limited to any automobile, truck, van, bus, motorcycle, boat or trailer, whether motorized or unmotorized, except by use of a hand-held bucket or similar container or a hose equipped with a positive action quick release shutoff valve or nozzle. This subsection shall not apply to any commercial car washing facility which utilizes a recycling system to capture or reuse water.

C. Water Features and Water Recreation Facilities. No person shall:

1. Fill any water feature such as a fountain, pond, lake or water display unless the water feature is constructed with a water recirculation system.

2. Fill any water recreation facility such as a hot tub, spa, permanent swimming or wading pool unless the water recreation facility is constructed, installed or equipped with a cover to reduce water loss due to evaporation.

D. Waste, Ponding and Leaks. No person shall:

1. Cause, permit or allow water to leak from any exterior or interior pipe, hose or plumbing fixture of any kind whatsoever.

2. Cause, permit or allow water to flow from any source on private or public property into gutters, streets, alleys or storm drains, except as a result of rainfall or excessive groundwater from a private sump pump or from a nonpotable source of water.

3. Cause, permit or allow water from any source to pond on private or public property, except as a result of rainfall.

4. Cause, permit or allow water to flow from any source on private or public property without beneficial use.

E. Eating and Drinking Establishments.

1. All eating and drinking establishments of any kind whatsoever including, but not limited to, any restaurant, hotel, cafe, cafeteria, bar or club, whether public or private, shall only provide drinking water to any person upon receipt of an express request.

2. All food service businesses shall install water conserving pre-rinse nozzles.

F. Hotels, Motels, Bed and Breakfast.

1. All hotels, motels and bed and breakfast establishments shall provide customers the option of choosing not to have towels laundered daily. Each establishment shall prominently display notice of this option in each bathroom and sleeping room using clear easily understood language.

2. All guest room toilets shall be low flow toilets utilizing the best available technology at the time of installation.

G. Carwashes. All carwash systems shall use water recirculation systems.

H. Commercial Establishments in General.

1. All nonresidential buildings in the City shall maintain:

a. Public toilets and urinals with best available technology low flow toilets and urinals.

b. Water efficient dishwashers.

2. Water efficient washing machines shall be installed upon replacement of existing or acquisition of new washing machines in nonresidential buildings.

I. Hoses. No person shall allow water to flow freely from a hose that is not equipped with a positive action quick release shutoff valve or nozzle.

J. Landscape Irrigation – 1.) New Construction - Irrigation with potable water outside of newly constructed homes and buildings shall be delivered by drip or microspray irrigation systems for irrigation projects submitted for City review on July 1, 2015 or after; 2.) New Landscape Irrigation – Irrigation with potable water of new landscape, not associated with new construction, shall be delivered by drip or microspray irrigation systems for irrigation projects submitted for City review on July 1, 2015 or after.

K. Exceptions. The provisions of this section are not applicable to the uses of water that are necessary to protect public health and safety or for essential services, such as police, fire, and other similar emergency services. The provisions of this section also do not apply to non-potable water, such as recycled or reclaimed water.

#### **7.44.030 – Drought restrictions.**

In addition to the permanent water restrictions set forth in Section 7.44.020, the City Council may impose the following restrictions after a public hearing, notice of which shall be published not less than 10 days before the hearing in a newspaper of general circulation within the City:

A. Stage 1 Water Shortage. Upon declaration of a Stage 1 Water Shortage, the following restrictions shall apply to the use of water from the City's water system:

1. Landscape irrigation using potable water shall be limited to no more than 15 minutes per watering zone per watering day.

2. Landscape watering with potable water shall be limited to three times per week between:

a. 6:00 p.m. on Monday and 9:00 a.m. the following Tuesday;

b. 6:00 p.m. on Wednesday and 9:00 a.m. the following Thursday; and

c. 6:00 p.m. on Saturday and 9:00 a.m. the following Sunday.

3. This subsection shall not apply to any drip irrigation system, irrigation system maintenance, leak repair or new planting of low water usage plants or if reclaimed water is utilized as permitted by law.

B. Stage 2 Water Shortage. Upon declaration of a Stage 2 Water Shortage, the following restrictions shall apply to the use of water from the City's water system:

1. No landscape watering with potable water unless a timed sprinkler system is installed or watering is done with a handheld device.

2. Landscape watering with potable water shall be limited to two times per week for not more than 15 minutes per watering zone from:

a. 6:00 p.m. on Wednesday and 9:00 a.m. the following Thursday; and

b. 6:00 p.m. on Saturday and 9:00 a.m. the following Sunday.

3. This subsection shall not apply to any drip irrigation system, irrigation system maintenance, leak repair or new planting of low water usage plants or if reclaimed water is utilized as permitted by law.

C. Stage 3 Water Shortage. Upon declaration of a Stage 3 Water Shortage, the following restrictions shall apply to the use of water from the City's water system:

1. Washing of vehicles is prohibited, except at commercial car washes or by mobile high pressure/low volume commercial services.

2. Landscape watering with potable water shall be limited to one time per week for not more than 15 minutes per watering zone as follows:

a. Even numbered addresses from 6:00 p.m. on Wednesday to 9:00 a.m. the following Thursday; and

b. Odd numbered addresses from 6:00 p.m. on Friday to 9:00 a.m. the following Saturday.

3. This subsection shall not apply to any drip irrigation system, irrigation system maintenance, leak repair or new planting of low water usage plants or if reclaimed water is utilized as permitted by law.

D. Stage 4 Water Shortage. Upon declaration of a Stage 4 Water Shortage, the following restrictions shall apply to the use of water from the City's water system:

1. Washing of vehicles is prohibited, except at commercial car washes or by mobile high pressure/low volume commercial services.

2. Home reverse osmosis treatment units and water softeners shall be disconnected or turned off.

3. Watering of nonpublic playing fields with potable water is prohibited.

4. Landscape watering with potable water shall be limited to one time per week only by drip irrigation, hand held hoses, or if reclaimed water is utilized as permitted by law as follows:

a. Even numbered addresses from 6:00 p.m. on Wednesday to 9:00 a.m. the following Thursday, and

b. Odd numbered addresses from 6:00 p.m. on Friday to 9:00 a.m. the following Saturday.

5. This subsection shall not apply to any drip irrigation system, irrigation system maintenance, leak repair or new planting of low water usage plants or if reclaimed water is utilized as permitted by law.

E. Stage 5 Water Shortage or Above. Upon declaration of a Stage 5 Water Shortage, the following restrictions shall apply to the use of water from the City's water system:

1. Washing of vehicles is prohibited, except at commercial car washes or by mobile high pressure/low volume commercial services.

2. Home reverse osmosis treatment units and water softeners shall be disconnected or turned off.

3. Filling of residential swimming pools or spas with potable water is prohibited.

4. Landscape irrigation with potable water is prohibited, except with a watering can using water captured from indoor use.

5. Any additional water conservation measures adopted by the Director of Public Works or his or her designee deemed necessary for the preservation of public health, safety, and welfare.

6. This subsection shall not apply to any drip irrigation system, irrigation system maintenance, leak repair or new planting of low water usage plants or if reclaimed water is utilized as permitted by law.

F. Exceptions. The provisions of this section are not applicable to the uses of water that are necessary to protect public health and safety or for essential services, such as police, fire, and other similar emergency services. The provisions of this section also do not apply to non-potable water, such as recycled or reclaimed water.

#### **7.44.040 – Penalties.**

A. The city prosecutor, any peace officer or city code enforcement officer shall have the authority to enforce the provisions of this chapter.

B. Notice of First Violation. The City shall issue a written notice to a violator of a first violation and provide the violator with a period of seven days to correct the violation.

C. A failure to timely correct a first violation and all subsequent violations of this Chapter shall constitute an infraction and may, at the City's discretion, be punishable by a fine of not more than One Hundred (\$100.00) Dollars for a first violation, a fine of not more than Two Hundred (\$200.00) Dollars for a second violation of the same provision of this chapter within one year, or a fine of not more than Five Hundred (\$500.00) Dollars for each additional violation of the same provision of this chapter within one year. Any offense that would otherwise constitute an infraction shall be deemed a misdemeanor if a defendant has been convicted of two or more prior violations of this Chapter within the 12-month period immediately preceding the commission of the offense. Each day that a violation occurs shall constitute a separate offense.

D. Punishment under this chapter shall not preclude punishment pursuant to any provision of state law pertaining to water conservation or any other remedies, penalties or procedures provided by law.

**7.44.050 – Relief from compliance.**

A. Within 20 days after the date of a first notice of violation, a person may file an application for relief from any provision of this Chapter. The City Manager or his or her designee shall grant, conditionally grant, or deny the application.

B. In determining whether to grant relief and the nature of any relief, the City Manager or his or her designee shall take into consideration all relevant factors including, but not limited to, the following:

1. Water uses during construction; and
2. Adjustments to water use caused by emergency health or safety hazards.

**7.44.060 – Conflict of Laws.**

The provisions of this Chapter are intended to supplement and be in addition to any other adopted building code or regulation contained in Title 9 of this Code. In the event of a conflict, the provisions of Title 9 shall prevail over the provisions of this Chapter.”

**Section 2.** CEQA Finding. The City Council hereby finds that it can be seen with certainty that there is no possibility that the adoption of this Ordinance will have a significant effect on the environment. It is, therefore, exempt from California Environmental Quality Act review pursuant to Section 15061(b)(3) of the CEQA Guidelines (California Code of Regulations, Title 14, §§ 15000 *et seq.*). In addition, this Ordinance is exempt under CEQA Guidelines Sections 15307 and 15308 because the Ordinance amends the City’s water conservation regulations in a manner that would protect natural resources and the environment.

**Section 3.** If any part of this Ordinance or the application thereof to any person or circumstances is for any reason held invalid by a court of competent jurisdiction, the validity of the remainder of this Ordinance or the application of such provision to other persons or circumstances shall not be affected.

**Section 4.** The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause this Ordinance to be published within 15 days after its passage, in accordance with Section 36933 of the Government Code.

**Section 5.** This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the 31st day after its passage.



PASSED, APPROVED AND ADOPTED this \_\_\_\_ of \_\_\_\_\_, 2015.

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

---

WAYNE POWELL  
Mayor

ATTEST:

---

LIZA TAMURA  
City Clerk

APPROVED AS TO FORM:

---

QUINN M. BARROW  
City Attorney



**Agenda Date:** 6/2/2015

---

**TO:**

Honorable Mayor and Members of the City Council

**THROUGH:**

Mark Danaj, City Manager

**FROM:**

Liza Tamura, City Clerk

Tatyana Roujenova - Peltekova, Senior Deputy City Clerk

**SUBJECT:**

Declare Vacant the Parking and Public Improvements Commission Business Community Seat No. 2 (Apostol) (City Clerk Tamura).

**DECLARE VACANCY, CONDUCT PUBLIC OUTREACH**

---

**RECOMMENDATION:**

Staff recommends that the City Council declare vacant the Parking and Public Improvements Commission (PPIC) Business Community Seat No. 2 (Apostol) and direct the City Clerk to conduct public outreach for the vacant Seat.

**FISCAL IMPLICATIONS:**

Sufficient funds are available in Fiscal Year 2014-2015 City Clerk's budget.

**BACKGROUND:**

The Parking and Public Improvements Commission consists of five (5) members and is responsible for public parking issues, capital improvement projects, traffic management and activities within the public right-of-way including encroachment permits.

At the May 19, 2015 City Council Meeting, the City Council appointed George Apostol to Planning Commission Seat No.2, therefore, leaving vacant the PPIC Seat No. 2 (Business Community Seat).

**DISCUSSION:**

Per Ordinance No. 1975, if a vacant seat has more than 18 months remaining in its term, the new member would complete the original term and then seek reappointment via the regular procedures for the next three (3) year term. As such, the new member appointed to this seat will complete the original term of office (expiring May 31, 2017) and then be eligible for

reappointment to the succeeding three-year term from June 1, 2017 to May 31, 2020.

Upon Council's approval to declare this Seat vacant, staff will advertise the vacancy in the June 4, 2015 and June 18, 2015 editions of the Beach Reporter, post the vacancy on the City Hall bulletin boards, post the vacancy on the City's web site, and send an e-notification of the vacant seat.

Staff will accept new applications until June 30, 2015. Applicants who participated in the 2015 Boards and Commissions Interview Process will also be contacted for the vacant seat.

**PUBLIC OUTREACH/INTEREST:**

If approved, a notice declaring the subject vacancy will be published in the Beach Reporter, post the vacancy on the City Hall bulletin boards, publish on the City website Boards and Commissions page and e-Notify the vacant seat. In addition, a slide on the homepage of the City website will be posted to further advertise to the community the Parking and Public Improvements Commission vacancy.

**CONCLUSION:**

Staff recommends that the City Council declare vacant the Parking and Public Improvements Commission (PPIC) Business Community Seat No. 2 (Apostol) and direct the City Clerk to conduct public outreach for the vacant Seat. City Council will consider the appointment of the new Commissioner at the July 7, 2015 City Council Meeting.

**Agenda Date:** 6/2/2015

---

**TO:**

Honorable Mayor and Members of the City Council

**THROUGH:**

Mark Danaj, City Manager

**FROM:**

Bruce Moe, Finance Director

**SUBJECT:**

Renewal of Five Year Professional Services Agreement with HdL, Coren & Cone to Provide Property Tax Reporting, Analytic and Audit Services for an Estimated Cost of \$60,500 (Finance Director Moe).

**APPROVE**

---

**RECOMMENDATION:**

Staff recommends that the City Council renew a new five year agreement with HdL, Coren & Cone for property tax reporting, analytic and audit services for an estimated cost of \$60,500.

**FISCAL IMPLICATIONS:**

Funds are budgeted annually for this service. The total cost of the five year contract, which includes consumer price index adjustments in years four and five (estimated at 3% in those years), is \$60,500. Years one through three are fixed at \$11,880 per year.

**BACKGROUND:**

The City's largest General Fund revenue source is Property Tax (41%). Analyzing, auditing and reporting on these revenues is an important function that assists the City in budgeting, forecasting and tracking trends for this key source. The firm of HdL, Coren & Cone has provided these services to the City since 1996.

**DISCUSSION:**

The scope of these professional services include providing:

- a property tax database available through an online property tax application;
- listings of the major property owners in the City, including the assessed value of their properties, and an estimate of the property taxes;
- listings of property tax transfers which occurred since the prior lien date;
- comparisons of property within the City by county-use code designation;

- listings by parcel of new construction activity between tax years to provide reports for use in the City's preparation of Gann (Propositions 4 and 111) State Appropriation Limit calculations;
- estimates of property tax revenue anticipated to be received for the fiscal year;
- forecasts of estimated general fund property tax revenue for future fiscal years;
- historical trending reports involving taxable assessed values for the City, median and average sales prices, foreclosure activity and related economics trends;
- analyses based on geographic areas designated by the City to include assessed valuations and square footage computations for use in community development planning;
- and quarterly listings of property tax appeals filed on properties in the City.

Staff is recommending that the City Council renew a five year professional services agreement with HdL, Coren & Cone for property tax analytic, audit and reporting services. This recommendation is based on the excellent service they have provided to the City over many years, which staff relies upon for analyzing, forecasting and tracking the City's largest General Fund revenue source. However, if at any time the City is not satisfied with HdL, Coren & Cone's services it may terminate the contract with forty-five days written notice.

Contracts for professional services are exempt from the City's bidding requirements. Additionally, based on the successful association the City maintains with HdL, Coren & Cone, staff believes it is the City's best interest to continue this relationship. Finally, staff believes that seeking proposals will not result in the City obtaining improved service and/or significantly lower costs.

The annual cost of the contract for the first three years is \$11,880 per year, subject to consumer price index adjustments in years four and five. The estimated total for five years is \$60,500.

The City Attorney has reviewed the agreement and has approved it as-to-form.

Attachment:

1. Agreement for Property Tax Consulting/Audit Services

**CITY OF MANHATTAN BEACH**  
**AGREEMENT FOR PROPERTY TAX**  
**CONSULTING/AUDIT SERVICES**

This AGREEMENT (the "Agreement") is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2015 by and between the CITY OF MANHATTAN BEACH, a municipal corporation hereinafter called CITY, and HdL Coren & Cone, a California Corporation hereinafter called CONTRACTOR.

**RECITALS**

**WHEREAS**, property tax revenues can be verified and potentially increased through a system of continuous monitoring, identification and reconciliation to county records; and

**WHEREAS**, an effective program of property tax management will assist the CITY in fiscal, economic and community development planning; and

**WHEREAS**, CITY desires the property tax data based reports and data analysis required to effectively manage the CITY property tax base and identify and recover revenues misallocated within the CITY, or to other jurisdictions; and

**WHEREAS**, CONTRACTOR is a state-wide expert in such data analysis with over 190 public agency clients for whom such services are performed and has the programs, equipment, data and personnel required to deliver the property tax services referenced herein;

**WHEREAS**, CITY prefers to pay for certain of such services through a contingency arrangement where payment is made from monies recovered and CONTRACTOR is willing to base its compensation on such a risk-based formula.

**NOW, THEREFORE**, CITY and CONTRACTOR, for the consideration hereinafter described, mutually agree as follows:

**1.0 DEFINITIONS**

For purposes of this Agreement, the following terms shall have the meaning stated below:

**Audit Review:** "Audit" or "Audit Review" shall mean the comparison of databases to ensure that parcels are correctly coded with the appropriate tax rate area to return revenue to the client city. Audits include the secured and unsecured tax rolls and where secured records are corrected; the corresponding unsecured records related to those properties are also corrected. A review of the calculation methodologies developed by auditor/controller offices in the administration of property tax revenues or tax increment revenues is made to ensure compliance. New annexations are audited the first (1st) or second (2nd) year after the area's adoption due to the timing of LAFCO and the State Board of Equalization in assigning new tax rate areas and county processing of those changes.

**County:** "County" shall mean the County in which the CITY is located.

**Database:** "Database" shall mean a computerized listing of property tax parcels and information compiled for CITY from information provided by the County.

**Days:** "Days" shall mean calendar days.

**Property Tax Roll:** "Property Tax Roll" shall mean the assessed values of parcels on the secured and unsecured lien date rolls as reported by the County.

**Proprietary Information:** "Proprietary Information" shall be the reports, technical information, compilations of data, methodologies, formula, software, programs, technologies and other processes previously designed and developed by CONTRACTOR and used in the performance of the services hereunder.

**Recovered/Reallocated Revenue:** "Recovered or Reallocated Revenue" shall mean additional revenue received as a result of an audit or review of properties submitted for correction or for corrections due erroneous calculations or incorrect methods of distributing revenue discovered by the CONTRACTOR and then made by county agencies which result in a return of additional revenue to the city/agency. Reviews of city administered pass throughs are performed to ensure the correctness of distributions being made to participating agencies.

**Scope of Services:** "Scope of Services" shall mean all of the Base Services specified in Section 2.0, the Optional Services in Section 3.0, the Additional Services in Section 4.0, or any other services rendered hereunder.

**TRA:** "Tax Rate Area" shall mean the area subject to the tax rate.

## **2.0 BASE SERVICES**

The CONTRACTOR shall perform all of the following duties as part of the Base Services provided hereunder, unless otherwise specified in writing by the Contract Officer:

### **2.1 Analysis And Identification Of Misallocation Errors (Contingent Fee)**

(a) In the first year of this Agreement, and as necessary thereafter but not less than once every five (5) years, CONTRACTOR shall conduct an analysis to identify and verify in the CITY parcels on the secured Property Tax Roll which are not properly attributed to a CITY, and will provide the correct TRA designation to the proper County agency. Typical errors include parcels assigned to incorrect TRAs within the CITY or an adjacent city, and TRAs allocated to wrong taxing agencies.

(b) CONTRACTOR shall annually reconcile the annual auditor-controller assessed valuations report to the assessor's lien date rolls and identify discrepancies.



(c) CONTRACTOR shall annually review parcels on the unsecured Property Tax Roll to identify inconsistencies such as value variations, values being reported to a mailing address rather than the situs address, and errors involving TRAs (to the extent records are available).

(d) CONTRACTOR may audit general fund property tax revenue or other revenues attributable to the CITY and special districts.

## **2.2 Annual Services (Fixed Fee)**

Annually, after the Property Tax Roll is available:

(a) CONTRACTOR shall establish a Database for CITY available through CONTRACTOR's online property tax application.

(b) Utilizing the Database, CONTRACTOR will provide:

(1) A listing of the major property owners in the CITY, including the assessed value of their property.

(2) A listing of the major property tax payers, including an estimate of the property taxes.

(3) A listing of property tax transfers which occurred since the prior lien date.

(4) A comparison of property within the CITY by county-use code designation.

(5) A listing by parcel of new construction activity between tax years to provide reports for use in the CITY's preparation of Gann (Propositions 4 and 111) State Appropriation Limit calculations.

(6) Calculate an estimate of property tax revenue anticipated to be received for the fiscal year by the CITY. This estimate is based upon the initial information provided by the County and is subject to modification. This estimate shall not be used to secure the indebtedness of the CITY.

(7) Development of forecast of estimated general fund property tax revenue for future fiscal years.

(8) Development of historical trending reports involving taxable assessed values for the CITY, median and average sales prices, foreclosure activity and related economics trends.

(9) Upon written request, analyses based on geographic areas designated by the CITY to include assessed valuations and square footage computations for use in community development planning.

### **2.3 Quarterly Services/Monthly Services (Fixed Fee)**

The CONTRACTOR shall perform the following services quarterly:

- (a) A listing of property tax appeals filed on properties in the CITY (selected counties).
- (b) A listing of property transfers that have occurred since the last report.
- (c) Monthly update of CONTRACTOR'S web-based software program to include parcel transfer data and, in select counties, appeal updates.

### **2.4 On-Going Consultation (Fixed Fee)**

During the term of this Agreement, CONTRACTOR will serve as the CITY's resource staff on questions relating to property tax and assist in estimating current year property tax revenues. On-going consultation would include, but not be limited to, inquiries resolved through use of the CITY's database.

### **3.0 OPTIONAL SERVICES**

The following services are available on a time and materials basis:

#### **3.1 Specified Data**

Generation of specialized data-based reports or the development of special geo-based designations from CITY maps or geographic areas which would require additional programming, the purchase of additional data, costs for county staff research, additional historical parcel tracking by CONTRACTOR or similar matters not necessary to carry out services outlined in Section 2.0.

#### **3.2 County Research**

Any research with County agencies for which CONTRACTOR does not have a current database.

#### **3.3 Specialized Services**

Other services for which the CONTRACTOR has expertise as requested by the CITY.

#### **3.4 Additional Meetings Requested**

Meetings in excess of the annual meeting to review the analysis of property tax data, trending information, and other findings with CITY shall be considered an Optional Service.

#### **4.0 ADDITIONAL SERVICES**

CITY shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work. No such extra work may be undertaken unless a written order is first given by the Contract Officer to the Contractor, incorporating therein any material adjustment in the contract and/or the time to perform this Agreement, which said adjustments are subject to the written approval of the Contractor. Any increase in compensation of up to \$25,000, or in the time to perform of up to one hundred eighty (180) days may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively must be approved by the City Council. It is expressly understood by Contractor that the provisions of this Section shall not apply to services specifically set forth in the Scope of Services or reasonably contemplated therein.

#### **5.0 OBLIGATIONS OF THE PARTIES WITH RESPECT TO SERVICES**

##### **5.1 City Materials and Support**

CITY agrees to provide the following information:

1. Current CITY maps;
2. A copy of reports received by the CITY annually from the Auditor-Controller's office detailing assessed values (secured, unsecured and utilities), as well as unitary values for reconciliation analysis;
3. Parcel listing and maps of CITY parcel annexations since the lien date roll;
4. A listing of the CITY levies assessment districts and direct assessments;
5. Remittance Advices.

##### **5.2 Compliance with Law**

All services rendered hereunder shall be provided in accordance with all ordinances, resolutions, statutes, rules, and regulations of the CITY and any Federal, State or local governmental agency having jurisdiction in effect at the time service is rendered.

##### **5.3 License, Permits, Fees and Assessments**

CONTRACTOR shall obtain such licenses, permits and approvals (collectively the "Permits") as may be required by law for the performance of the services required by this Agreement. CITY shall assist CONTRACTOR in obtaining such Permits, and CITY shall absorb all fees, assessments and taxes which are necessary for any Permits required to be issued by CITY.

#### **5.4 Further Responsibilities of Parties**

Both parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonably necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither party shall be responsible for the service of the other.

### **6.0 CONSIDERATION**

#### **6.1 Base Fixed Fee Services**

CONTRACTOR shall provide the Base Services described in Section 2.0 above, for a fixed annual fee of \$11,880.00 (invoiced quarterly).

The fee for the first three (3) years of this Contract shall be the annual fixed fee as noted. In the fourth (4th) year of the contract the Base Fixed Services Fee shall be adjusted by the California Consumer Price Index (CCPI) for all urban consumers as determined by the California Department of Industrial Relations as measured February of the first year to February of third year of this Contract. The revised Base Fixed Services Fee including the CCPI adjustment shall apply to the fourth (4th) and fifth (5th) years of the Contract. If this Contract is extended month to month as provided for in Section 7.4, the Base Fixed Fee shall be adjusted annually by the California Consumer Price Index (CCPI) for all items as determined by the California Department of Industrial Relations as measured February to February by the California All Urban Consumers index.

#### **6.2 Base Contingent Fee Services**

For Base Services pursuant to Section 2.1 which are payable on a contingent basis, CONTRACTOR shall receive twenty-five percent (25%) of general fund revenue or other revenues attributable to CITY, districts, or funds recovered or reallocated which are directly or indirectly the result of an audit, analysis or consultation performed by CONTRACTOR. CONTRACTOR shall separate and support said reallocation and provide CITY with an itemized invoice showing all amounts due as a result of revenue recovery or reallocation. CITY shall pay audit fees after Contractor's submittal of evidence that corrections have been made by the appropriate agency. Payment to CONTRACTOR shall be made within thirty (30) days after CITY receives its first remittance advice during the fiscal year for which the correction applies.

#### **6.3 Optional Services**

Fees for Optional Services as outlined in Services in Section 3.0 above (except Section 3.4) shall be billed at the following hourly rates:

Partner	\$225 per hour
Principal	\$195 per hour
Programmer	\$150 per hour
Associate	\$150 per hour
Senior Analyst	\$100 per hour
Analyst	\$ 65 per hour
Administrative	\$ 45 per hour

Hourly rates are exclusive of expenses and are subject to adjustment by CONTRACTOR annually. On July 1st of each year CONTRACTOR shall provide CITY with an updated schedule of hourly rates. The rates will not be increased by more than five percent (5%) per year. In addition, expenses for Optional Services shall be billed at 1.15 times actual incurred costs.

**6.4 Indirect Expenses**

Except as specified above, no other charges shall be made for direct or indirect expenses incurred by CONTRACTOR in performing the services in the Scope of Services including for administrative overhead, salaries of CONTRACTOR’S employees, travel expenses or similar matters.

**6.5 Due Date**

All fees are due thirty (30) days immediately following billing. All amounts that are not paid when due shall accrue interest from the due date at the rate of one percent per month (twelve percent (12%) per annum).

**7.0 TERM PERFORMANCE SCHEDULE**

**7.1 Time of Essence**

Time is of the essence in the performance of this Agreement.

**7.2 Schedule of Performance**

CONTRACTOR shall commence the services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all services within the time period(s) established in the “Schedule of Performance” attached hereto as Exhibit “A”, and incorporated herein by this reference. When requested by the CONTRACTOR, extensions to the time period(s) specified in the Schedule of Performance may be approved in writing by the Contract Officer but not exceeding one hundred eighty (180) days cumulatively.

**7.3 Force Majeure**

The time period(s) specified in the Schedule of Performance for performance of the services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the CONTRACTOR, including, but not restricted to, acts of God or of the public enemy, unusually

severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the CITY, if the CONTRACTOR shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified.

#### **7.4 Term**

Unless earlier terminated in accordance with Section 11.6 of this Agreement, this Agreement shall continue in full force and effect for five (5) years.

### **8.0 COORDINATION OF WORK**

#### **8.1 Representative of Contractor**

The following principals of CONTRACTOR are hereby designated as being the principals and representatives of CONTRACTOR authorized to act in its behalf with respect to the work specified herein and make all decisions in connection therewith:

Paula Cone  
HdL COREN & CONE  
1340 Valley Vista Drive, Suite 200  
Diamond Bar, California 91765

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principals were a substantial inducement for CITY to enter into this Agreement. Therefore, the foregoing principals shall be responsible during the term of this Agreement for directing all activities of CONTRACTOR and devoting sufficient time to personally supervise the services hereunder. For purposes of this Agreement, the foregoing principals may not be replaced nor may their responsibilities be substantially reduced by CONTRACTOR without the express written approval of CITY.

#### **8.2 Contract Officer**

The Contract Officer shall be such person as may be designated by the City Manager of CITY. It shall be the CONTRACTOR'S responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the services and the CONTRACTOR shall refer any decisions which must be made by CITY to the Contract Officer. Unless otherwise specified herein, any approval of CITY required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority to sign all documents on behalf of the CITY required hereunder to carry out the terms of this Agreement.

#### **8.3 Prohibition Against Subcontracting or Assignment**

The experience, knowledge, capability and reputation of CONTRACTOR, its principals and employees were a substantial inducement for the CITY to enter into this Agreement. Therefore, CONTRACTOR shall not contract with any other entity to perform in whole or in

part the services required hereunder without the express written approval of the CITY. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of CITY. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than fifty percent (50%) of the present ownership and/or control of CONTRACTOR, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the CONTRACTOR or any surety of CONTRACTOR of any liability hereunder without the express consent of CITY.

#### **8.4 Independent Contractor**

Neither the CITY nor any of its employees shall have any control over the manner, mode or means by which CONTRACTOR, its agents or employees, perform the services required herein, except as otherwise set forth herein. CITY shall have no voice in the selection, discharge, supervision or control of CONTRACTOR'S employees, servants, representatives or agents, or in fixing their number, compensation or hours of service. CONTRACTOR shall perform all services required herein as an independent CONTRACTOR of CITY and shall remain at all times as to CITY a wholly independent CONTRACTOR with only such obligations as are consistent with that role. CONTRACTOR shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of CITY. CITY shall not in any way or for any purpose become or be deemed to be a partner of CONTRACTOR in its business or otherwise or a joint venturer or a member of any joint enterprise with CONTRACTOR.

### **9.0 INSURANCE AND INDEMNIFICATION**

#### **9.1 Insurance**

The CONTRACTOR shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to CITY, during the entire term of this Agreement including any extension thereof, the following policies of insurance:

(a) Comprehensive General Liability Insurance. The policy of insurance shall be in an amount not less than either (i) a combined single limit of \$1,000,000 for bodily injury, death and property damage or (ii) bodily injury limits of \$500,000 per person, \$1,000,000 per occurrence and \$1,000,000 products and completed operations and property damage limits of \$500,000 per occurrence and \$500,000 in the aggregate.

(b) Workers' Compensation Insurance. A policy of Workers' Compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for both the CONTRACTOR and the CITY against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by the CONTRACTOR in the course of carrying out the work or services contemplated in this Agreement.

(c) Automotive Insurance. A policy of comprehensive automobile liability insurance written on a per occurrence basis in an amount not less than either (i) bodily injury

liability limits of \$250,000 per person and \$500,000 per occurrence and property damage liability limits of \$100,000 per occurrence and \$250,000 in the aggregate or (ii) combined single limit liability of \$500,000. Said policy shall include coverage for owned, non-owned, leased and hired cars.

(d) Errors and Omissions (Professional Liability). A policy of professional liability issuance written on a claims made basis in an amount not less than \$1,000,000.

**9.2** General Requirements. All of the above policies of insurance shall be primary insurance and shall name the CITY, its officers, employees and agents as additional insureds. The insurer shall waive all rights of subrogation and contribution it may have against the CITY, its officers, employees and agents and their respective insurers. All of said policies of insurance shall provide that said insurance may not be amended or cancelled without providing thirty (30) days prior written notice by registered mail to the CITY. In the event any of said policies of insurance are cancelled, the CONTRACTOR shall, prior to the cancellation date, submit new evidence of insurance in conformance with this Section 9.0 to the Contract Officer. No work or services under this Agreement shall commence until the CONTRACTOR has provided the CITY with Certificates of Insurance or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by the CITY.

### **9.3** Indemnification

CONTRACTOR agrees to indemnify the CITY, its officers, agents and employees against, and will hold and save them and each of them harmless from, any and all actions, suits, claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities, (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work, operations or activities of CONTRACTOR, its agents, employees, subcontractors, or invitees, provided for herein, or arising from the negligent acts or omissions of CONTRACTOR hereunder, or arising from CONTRACTOR'S negligent performance of or failure to perform any term, provision, covenant or condition of this Agreement, whether or not there is concurrent passive or active negligence on the part of the CITY, its officers, agents or employees but excluding such claims or liabilities arising from the sole negligence or willful misconduct of the CITY, its officers, agents or employees, who are directly responsible to the CITY.

### **9.4** Sufficiency of Insurer or Surety

Insurance or bonds required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the Risk Manager of the CITY due to unique circumstances. In the event the Risk Manager of CITY ("Risk Manager") determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to the CITY, the CONTRACTOR agrees that the minimum limits of the insurance policies required by this Section 9.0 may be changed accordingly upon receipt of written notice from the Risk Manager; provided that the CONTRACTOR shall have



the right to appeal a determination of increased coverage by the Risk Manager to the CITY Council of CITY within ten (10) days of receipt of notice from the Risk Manager.

## **10.0 RECORDS AND REPORTS**

### **10.1 Reports**

CONTRACTOR shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the services required by this Agreement as the Contract Officer shall require.

### **10.2 Records**

CONTRACTOR shall keep, and require subcontractors to keep, such books and records as shall be necessary to perform the services required by this Agreement and enable the Contract Officer to evaluate the performance of such services. The Contract Officer shall have full and free access to such books and records at all times during normal business hours of CITY, including the right to inspect, copy, audit and make records and transcripts from such records. Such records shall be maintained for a period of three (3) years following completion of the services hereunder, and the CITY shall have access to such records in the event any audit is required.

### **10.3 Non-Disclosure of Proprietary Information**

In performing its duties under this Agreement, CONTRACTOR will produce reports, technical information and other compilations of data to CITY. These reports, technical information and compilations of data are derived by CONTRACTOR using methodologies, formulae, programs, techniques and other processes designed and developed by CONTRACTOR at a substantial expense. The methodologies, formulae, software, programs, techniques and other processes designed and developed by CONTRACTOR are deemed by CONTRACTOR to be proprietary, and shall be referred to herein as Proprietary Information. CONTRACTOR represents to CITY that CONTRACTOR'S Proprietary Information is not generally known by the entities with which CONTRACTOR competes.

CONTRACTOR desires to protect its Proprietary Information. Accordingly, CITY agrees that neither it nor any of its employees, agents, independent contractors or other persons or organizations over which it has control, will at any time during or after the term of this Agreement, directly or indirectly use any of CONTRACTOR'S Proprietary Information for any purpose not associated with CONTRACTOR'S activities. Further, CITY agrees that it nor any of its employees, agents, independent contractors or other persons or organizations over which it has control, will disseminate or disclose any of CONTRACTOR'S Proprietary Information to any person or organization not connected with CONTRACTOR, without the express written consent of CONTRACTOR, unless required to do so by a court order or legal proceeding(s), or as required by governmental agencies acting in their regulatory capacity and having jurisdiction, or as otherwise required by law (including but not limited to the California Public Records Act). The CITY also agrees that, to the extent permitted by the California Public Records Act and related disclosure laws, it will undertake all reasonably necessary and appropriate steps to maintain the proprietary nature of CONTRACTOR'S Proprietary Information.

Any use of the Proprietary Information or any other reports, records, documents or other materials prepared by CONTRACTOR hereunder for other projects and/or use of uncompleted documents without specific written authorization by the CONTRACTOR will be at the CITY's sole risk and without liability to CONTRACTOR, and the CITY shall indemnify the CONTRACTOR for all damages resulting therefrom.

#### **10.4 Release of Documents Pursuant to Public Records Act**

Notwithstanding any other provision in this Agreement, all obligations relating to disclosure of Proprietary Information remain subject to the Freedom of Information Act or California Public Records Act, Cal. Gov't Code §§ 6250 et seq. (collectively, the "PRA"). The Parties intend that if CITY is served with a request for disclosure under the PRA, or any similar statute, the CITY in good faith will make the determination as to whether the material is discloseable or exempt under the statute, and shall resist the disclosure of Proprietary Information that is exempt from disclosure to the extent allowable under the law. CITY shall advise CONTRACTOR in writing, five (5) days prior to the intended disclosure, of any decision to disclose Proprietary Information. CITY shall, prior to making the disclosure, allow CONTRACTOR reasonable opportunity to seek a protective order, to make the disclosure itself, or otherwise to respond to the alleged requirement for disclosure. CONTRACTOR shall be solely liable for defending any non-disclosure of Proprietary Information and shall indemnify and hold CITY harmless for such nondisclosure.

### **11.0 ENFORCEMENT OF AGREEMENT**

#### **11.1 California Law**

This Agreement shall be construed and interpreted both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Los Angeles, State of California, or any other appropriate court in such county, and CONTRACTOR covenants and agrees to submit to the personal jurisdiction of such court in the event of such action.

#### **11.2 Disputes**

In the event of any dispute arising under this Agreement, the injured party shall notify the injuring party in writing of its contentions by submitting a claim therefor. The injured party shall continue performing its obligations hereunder so long as the injuring party commences to cure such default within ten (10) days of service of such notice and completes the cure of such default within forty-five (45) days after service of the notice, or such longer period as may be permitted by the injured party; provided that if the default is an immediate danger to the health, safety and general welfare, such immediate action may be necessary. Compliance with the provisions of this Section shall be a condition precedent to termination of this Agreement for cause and to any legal action, and such compliance shall not be a waiver of any party's right to take legal action in the event that the dispute is not cured, provided that nothing herein shall limit CITY's or the CONTRACTOR'S right to terminate this Agreement without cause pursuant to Section 11.6.

### **11.3 Waiver**

No delay or omission in the exercise of any right or remedy by a nondefaulting party on any default shall impair such right or remedy or be construed as a waiver. A party's consent to or approval of any act by the other party requiring the party's consent or approval shall not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

### **11.4 Rights and Remedies are Cumulative**

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

### **11.5 Legal Action**

In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement.

### **11.6 Termination Prior to Expiration of Term**

This Section shall govern any termination of this Agreement. The Parties reserve the right to terminate this Agreement at any time, with or without cause, upon forty-five (45) days' written notice to the non-terminating party, except that where termination is for cause, the Parties will comply with the dispute resolution process in Section 11.2. Upon issuance of any notice of termination, CONTRACTOR shall immediately cease all services hereunder except such as may be specifically approved by the Contract Officer. The CONTRACTOR shall be entitled to compensation for all services rendered prior to the effective date of the notice of termination and for any services authorized by the Contract Officer thereafter. In the event of termination without cause pursuant to this Section, the terminating party need not provide the non-terminating party with the opportunity to cure pursuant to Section 11.2.

### **11.7 Attorneys' Fees**

If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees. Attorney's fees shall include attorney's fees on any appeal, and in addition a party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be

deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

## **12.0 CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION**

### **12.1 Non-liability of CITY Officers and Employees**

No officer or employee of the CITY shall be personally liable to the CONTRACTOR, or any successor in interest, in the event of any default or breach by the CITY or for any amount which may become due to the CONTRACTOR or to its successor, or for breach of any obligation of the terms of this Agreement.

### **12.2 Conflict of Interest**

No officer or employee of the CITY shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which effects his financial interest or the financial interest of any corporation, partnership or association in which he is, directly or indirectly, interested, in violation of any State statute or regulation. The CONTRACTOR warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

### **12.3 Covenant Against Discrimination**

CONTRACTOR covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry in the performance of this Agreement. CONTRACTOR shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, marital status, national origin, or ancestry.

## **13.0 MISCELLANEOUS PROVISIONS**

### **13.1 Notice**

Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail addressed as follows:

CITY:	Mark Danaj, City Manager City of Manhattan Beach 1400 Highland Avenue Manhattan Beach, California 90266
CONTRACTOR:	HdL COREN & CONE 1340 Valley Vista Drive, Suite 200 Diamond Bar, California 91765

Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

### **13.2 Interpretation**

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

### **13.3 Integration; Amendment**

It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. This Agreement may be amended at any time by the mutual consent of the parties by an instrument in writing.

### **13.4 Severability**

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

### **13.5 Corporate Authority**

The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound.


IN WITNESS WHEREOF, the parties have executed and entered into this Agreement as of the date first written above.

CITY OF MANHATTAN BEACH

\_\_\_\_\_  
Mark Danaj, City Manager

CONTRACTOR:

HdL COREN & CONE  
A California Corporation

  
\_\_\_\_\_

APPROVED AS TO FORM:  
RICHARDS, WATSON & GERSHON

  
\_\_\_\_\_

Quinn M. Barrow, City Attorney

**EXHIBIT "A"**

**SCHEDULE OF PERFORMANCE**

**TIMELINE FOR DELIVERABLES**

July/August	Data available for purchase from counties
September 30	Dataset and software available for installation on city computers
September-October	Unsecured audits performed and forwarded to county assessor
October-February	Delivery of preliminary property tax reports
December-June	Monthly data updates – Database/software Appeals quarterly updates emailed in counties where the data is available
March	Appeals quarterly updates emailed in counties where the data is available
March/April	General Fund Budget Projections
April/May	Final Books – Addendums emailed to clients
June	Appeals quarterly updates emailed in counties where the data is available
Ongoing	Secured Audits – City Revenue audits of City, and District receipts for correctness Property sales reports City mid-year budget reviews and budget projections Analytical work at the request of clients





**Agenda Date:** 6/2/2015

---

**TO:**

Honorable Mayor and Members of the City Council

**THROUGH:**

Mark Danaj, City Manager

**FROM:**

Mark Leyman, Parks and Recreation Director  
Tony Olmos, Public Works Director  
Bruce Moe, Finance Director  
Eve Kelso, Recreation Services Manager  
Gwen Eng, Purchasing Manager

**SUBJECT:**

Purchase of One Budgeted Dial-A-Ride Paratransit Van from Nations Bus in the Amount of \$68,944.39 Using AB 2766 (Motor Vehicle Registration Fee) Subvention Funds (Parks and Recreation Director Leyman).

**WAIVE FORMAL BIDDING; APPROVE**

---

**RECOMMENDATION:**

Staff recommends that the City Council waive formal bidding per Municipal Code Section 2.36.140 (waivers) and approve the purchase of one budgeted paratransit van from Nations Bus in the amount of \$68,944.39.

**FISCAL IMPLICATIONS:**

Funds totaling \$79,000 are budgeted in the fiscal year (FY) 2014-2015 AB 2766 Subvention Fund for the purchase and equipping of this vehicle. This vehicle costs \$68,944.39; the remaining budgeted funds of \$10,055.61 will be used to outfit the vehicle with the customary electronics and graphics.

**BACKGROUND:**

Dial-A-Ride (DAR) service has increased each year, up 17% in this past year alone. Often, the expanded service requires staff to utilize the City pool car fleet to augment the existing DAR bus and van fleet. In addition, the number of riders who use wheelchairs, which requires a vehicle with a wheelchair lift, has tripled in the past year. These increases have confirmed the need for an additional wheelchair accessible vehicle.

**DISCUSSION:**

The City maintains a fleet of three Dial-A-Ride buses and one van. All four units are typically in operation during peak periods. This fifth vehicle has been approved for purchase in the FY 2014-15 Budget. The budgeted vehicle recommended for purchase is an 11-passenger paratransit van with 1 wheelchair lift.

Staff is recommending that we purchase the same model paratransit van previously purchased in 2013 (Turtletop). At that time, staff reviewed and test-drove on City streets various products to evaluate under real world conditions. This was of primary importance due to the numerous sections of narrow city streets and the need to assess vehicle performance in such an environment. The Turtletop van was selected based on the following criteria: side entry for wheelchair users, which is safer than rear; adequate seating capacity to meet ridership demands; a vehicle suitable to navigate narrow streets and parking lots with weight and/or height restrictions; an effective layout that maximizes access and headroom for passengers; and local service facilities for repairs and warranty work.

The Turtletop is sold exclusively in the State of California by Nations Bus. As a result, competitive bidding is not possible for this make and model of van. However, when the City purchased its last Turtletop in 2013, we were able to take advantage of a "piggyback" contract from the Minnesota Department of Transportation (MnDOT). At that time, Nations Bus was the lowest bidder on that make and model and was awarded a contract. However, that contract is no longer available.

Fortunately, the City has negotiated a purchase from Nations Bus for the 2015 version of the same van model we purchased in 2013, for the same purchase price paid in 2013. Staff verified that the pricing is preferential based on a recent Florida Department of Transportation contract. In fact, the City's price is 4.3% lower than what the State of Florida is paying for the same unit. As a result, staff recommends waiving formal bidding and purchasing the Turtletop van from Nations Bus.

**CONCLUSION:**

The requested paratransit vehicle was selected based on the best solution for the City's needs. Based on the available pricing, staff recommends City Council waive formal bidding and award an order to Nations Bus in the amount of \$68,944.39 for the purchase of one Turtletop van. If this purchase is approved, the new vehicle will arrive in approximately four months.