



AGENDA REPORT

Meeting Date: June 17, 2008
Item Number: F-4
To: Honorable Mayor & City Council
From: Katie Lichtig, Assistant City Manager
Subject: APPROVING AN AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND ANNE BROWNING MCINTOSH FOR CONSULTANT SERVICES RELATING TO PROVIDING INTERIM DIRECTOR SERVICES TO THE COMMUNITY DEVELOPMENT DEPARTMENT;
AND
APPROVE A PURCHASE ORDER IN THE AMOUNT OF \$100,000 TO ANNE BROWNING MCINTOSH FOR THESE SERVICES
Attachments: 1. Agreement

RECOMMENDATION

Staff recommends that the City Council authorize an agreement with Anne Browning McIntosh and approve a purchase order in the amount not to exceed \$100,000 for consultant services relating to interim director services to the Community Development Department while the city is recruiting for a Director of Community Development.

INTRODUCTION

Anne Browning McIntosh will provide consultation and supervision services to the City of Beverly Hills 24 hours per week, for the next six months while the City recruits for a permanent Director.

DISCUSSION

During the recruitment of the new Director of Community Development, staff believes it is prudent to supplement the professional staff with an expert in the field of community development to provide consultation and supervision services to the City of Beverly Hills. Anne Browning McIntosh is a seasoned professional with more than 25 years of experience in the fields of planning, community development and overall municipal management. She is well suited to provide oversight, management of and overall

direction of Community Development Department. During her tenure as Interim Director she will focus on implementation of Department's Management Assessment conducted by Matrix Consulting Group; ensure that re-engineering of business processes associated with the opening of the Customer Service Center are accomplished; advise and counsel Community Development staff on improved business processes and policy development; guide development and implementation of strategic community development council goals, work plans and departmental budget; and coach and mentor existing staff as they manage the day-to-day operations of the department.

These services will be provided an average of 24 hours per week in this interim period until the new Director of Community Development is recruited and appointed. Additionally, the consultant will provide expert advice and counsel to the new Director of Community Development in order to maximize their effectiveness in this new position. The contract is a month-to-month agreement not to exceed a six-month period. Ms. McIntosh began providing service on June 2, 2008 and will conclude when a permanent Director of Community Development is appointed and begins working for the City.

FISCAL IMPACT

She will provide consultation and supervision services to the City of Beverly Hills for a cost of \$15,840 per month (pro-rated for the month of June). A contingency of \$4,960 has been included for reimbursement of incidental reimbursable expenses. Funds for this purpose will come from salary and benefits savings associated with the vacant Director of Community Development position.


Dr. Scott Miller
CFO/Administrative Service Director

Finance Approval

Katie E. Lichtig 
Assistant City Manager

Approved By

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS
AND ANNE BROWNING MCINTOSH FOR COMMUNITY
DEVELOPMENT SERVICES

NAME OF CONSULTANT: Anne Browning McIntosh, AICP
City Planning and Administration

RESPONSIBLE PRINCIPAL
OF CONSULTANT: Anne Browning McIntosh, AICP

CONSULTANT'S ADDRESS: 220 Highland Place
Monrovia, California 91016

CITY'S ADDRESS: City of Beverly Hills
455 N. Rexford Drive
Beverly Hills, CA 90210
Attention: Rod Wood, City Manager

COMMENCEMENT DATE: June 2, 2008

TERMINATION DATE: November 30, 2008, unless extended
pursuant to Section 2 or sooner terminated
pursuant to Section 11 of the Agreement

CONSIDERATION: Not to exceed \$15,840 per month or a total
of \$100,000.00, based on the rates set forth
in Exhibit B-1

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS
AND ANNE BROWNING MCINTOSH FOR COMMUNITY
DEVELOPMENT SERVICES

THIS AGREEMENT is made by and between the City of Beverly Hills (hereinafter called "CITY"), and Anne Browning McIntosh, AICP, City Planning and Administration, (hereinafter called "CONSULTANT").

RECITALS

A. CITY desires to have certain services provided (the "services") as set forth in Exhibit A, attached hereto and incorporated herein.

B. CONSULTANT represents that it is qualified and able to perform the services.

NOW, THEREFORE, the parties agree as follows:

Section 1. CONSULTANT's Services. CONSULTANT shall perform the services described in Exhibit A in a manner satisfactory to CITY and consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions.

Section 2. Time of Performance. CONSULTANT shall perform the services on or by the Termination Date set forth above. The City Manager or his designee may extend the time of performance in writing for two additional one-year periods pursuant to the same terms and conditions of the Agreement.

Section 3. Compensation. CITY agrees to compensate CONSULTANT, and CONSULTANT agrees to accept in full satisfaction for the services required by this Agreement the Consideration set forth above and more particularly described in Exhibit B-1, attached hereto and incorporated herein. Said Consideration shall constitute reimbursement of CONSULTANT's fee for the services as well as the actual cost of any equipment, materials, and supplies necessary to provide the services (including all labor, materials, delivery, tax, assembly, and installation, as applicable). CITY shall pay CONSULTANT said Consideration in accordance with the schedule of payment set forth in Exhibit B-2, attached hereto and incorporated herein.

Section 4. Independent Contractor. CONSULTANT is and shall at all times remain, as to CITY, a wholly independent contractor. Neither CITY nor any of its agents shall have control over the conduct of CONSULTANT or any of CONSULTANT's employees, except as herein set forth. CONSULTANT shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of CITY.

Section 5. Assignment. CONSULTANT shall not assign or attempt to assign any portion of this Agreement without the prior written approval of CITY.

Section 6. Responsible Principal(s)

(a) CONSULTANT's Responsible Principal set forth above shall be principally responsible for CONSULTANT's obligations under this Agreement and shall serve as principal liaison between CITY and CONSULTANT. Designation of another Responsible by CONSULTANT shall not be made without prior written consent of CITY.

(b) CITY's Responsible Principal shall be the City Manager or his designee set forth above who shall administer the terms of the Agreement on behalf of CITY.

Section 7. Personnel. CONSULTANT represents that it has, or shall secure at its own expense, all personnel required to perform CONSULTANT's services under this Agreement. All personnel engaged in the work shall be qualified to perform such services.

Section 8. Interests of CONSULTANT. CONSULTANT affirms that it presently has no interest and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of the services contemplated by this Agreement. No person having any such interest shall be employed by or be associated with CONSULTANT.

Section 9. Insurance.

(a) CONSULTANT shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, a policy or policies of Comprehensive Vehicle Liability Insurance covering any vehicle utilized by CONSULTANT in performing the services required by this Agreement with minimum limits of Three Hundred Thousand Dollars (\$300,000) to insure against personal injury, and minimum limits of One Hundred Thousand Dollars (\$100,000) to insure against property damage.

(b) CONSULTANT shall at all times during the term of this Agreement, carry, maintain and keep, in full force and effect, a policy or policies of Professional Liability Insurance (errors and omissions) with minimum limits of One Million Dollars (\$1,000,000) per claim and in the aggregate. Any deductibles or self-insured retentions attached to such policy or policies must be declared to and be approved by CITY. Further, CONSULTANT agrees to maintain in full force and effect such insurance for one year after performance of work under this Agreement is completed.

(c) CONSULTANT agrees to maintain in force at all times during the performance of work under this Agreement workers' compensation insurance as required by law.

(d) CONSULTANT shall require each of its sub-consultants or sub-contractors to maintain insurance coverage which meets all of the requirements of this Agreement.

(e) The policy or policies required by this Agreement shall be issued by an insurer admitted in the State of California and with a rating of at least a B+;VII in the latest edition of Best's Insurance Guide.

(f) CONSULTANT agrees that if it does not keep the aforesaid insurance in full force and effect CITY may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, CITY may take out the necessary insurance and pay, at CONSULTANT's expense, the premium thereon.

(g) At all times during the term of this Agreement, CONSULTANT shall maintain on file with the City Clerk a certificate or certificates of insurance on the form set forth in Exhibit C, attached hereto and incorporated herein, showing that the aforesaid policies are in effect in the required amounts. CONSULTANT shall, prior to commencement of work under this Agreement, file with the City Clerk such certificate or certificates. The policies of insurance required by this Agreement shall contain an endorsement naming the CITY as an additional insured. All of the policies required under this Agreement shall contain an endorsement providing that the policies cannot be canceled or reduced except on thirty (30) days prior written notice to CITY, and specifically stating that the coverage contained in the policies affords insurance pursuant to the terms and conditions as set forth in this Agreement.

(h) The insurance provided by CONSULTANT shall be primary to any coverage available to CITY. The policies of insurance required by this Agreement shall include provisions for waiver of subrogation.

(i) Any deductibles or self-insured retentions must be declared to and approved by CITY. At the option of CITY, CONSULTANT shall either reduce or eliminate the deductibles or self-insured retentions with respect to CITY, or CONSULTANT shall procure a bond guaranteeing payment of losses and expenses.

Section 10. Indemnification. CONSULTANT agrees to indemnify, hold harmless and defend CITY, City Council and each member thereof, and every officer, employee and agent of CITY, from any claim, liability or financial loss (including, without limitation, attorneys fees and costs) arising from any intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of CONSULTANT or any person employed by CONSULTANT in the performance of this Agreement.

Section 11. Termination.

(a) CITY may cancel this Agreement at any time upon five (5) days written notice to CONSULTANT. CONSULTANT agrees to cease all work under this Agreement on or before the effective date of such notice.

(b) In the event of termination or cancellation of this Agreement by CITY, due to no fault or failure of performance by CONSULTANT, CONSULTANT shall be paid full compensation for all services performed by CONSULTANT, in an amount to be determined as follows: For work done in accordance with all of the terms and provisions of this Agreement, CONSULTANT shall be paid an amount equal to the amount of services performed prior to the effective date of termination or cancellation; provided, in no event shall the amount of money paid under the foregoing provisions of this paragraph exceed the amount which would be paid CONSULTANT for the full performance of the services required by this Agreement.

Section 12. CITY's Responsibility. CITY shall provide CONSULTANT with all pertinent data, documents, and other requested information as is available for the proper performance of CONSULTANT's services.

Section 13. Information and Documents. All data, information, documents and drawings prepared for CITY and required to be furnished to CITY in connection with this Agreement shall become the property of CITY, and CITY may use all or any portion of the work submitted by CONSULTANT and compensated by CITY pursuant to this Agreement as CITY deems appropriate.

Section 14. Changes in the Scope of Work. The CITY shall have the right to order, in writing, changes in the scope of work or the services to be performed. Any changes in the scope of work requested by CONSULTANT must be made in writing and approved by both parties.

Section 15. Notice. Any notice required to be given to CONSULTANT shall be deemed duly and properly given upon delivery, if sent to CONSULTANT postage prepaid to the CONSULTANT's address set forth above or personally delivered to CONSULTANT at such address or other address specified to CITY in writing by CONSULTANT.

Any notice required to be given to CITY shall be deemed duly and properly given upon delivery, if sent to CITY postage prepaid to CITY's address set forth above or personally delivered to CITY at such address or other address specified to CONSULTANT in writing by CITY.

Section 16. Attorney's Fees. In the event of litigation between the parties arising out of or connected with this Agreement, the prevailing party in such litigation shall be entitled to recover, in addition to any other amounts, reasonable attorney's fees and costs of such litigation.

Section 17. Entire Agreement. This Agreement represents the entire integrated agreement between CITY and CONSULTANT, and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by a written instrument signed by both CITY and CONSULTANT.

Section 18. Governing Law. The interpretation and implementation of this Agreement shall be governed by the domestic law of the State of California.

Section 19. Severability. Invalidation of any provision contained herein or the application thereof to any person or entity by judgment or court order shall in no way affect any of the other covenants, conditions, restrictions, or provisions hereof, or the application thereof to any other person or entity, and the same shall remain in full force and effect.

EXECUTED the ____ day of _____ 200__, at Beverly Hills, California.

CITY OF BEVERLY HILLS
A Municipal Corporation

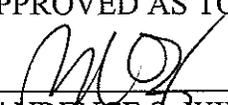
BARRY BRUCKER,
Mayor of the City of
Beverly Hills, California

ATTEST:

_____(SEAL)
BYRON POPE
City Clerk

CONSULTANT:

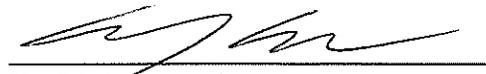
ANNE BROWNING MCINTOSH, AICP
Title: Sole Proprietor

APPROVED AS TO FORM


LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

RODERICK J. WOOD
City Manager



KARL KIRKMAN
Risk Manager

EXHIBIT A

SCOPE OF SERVICES

CONSULTANT shall perform the following services:

Anne Browning McIntosh, under the supervision of the City Manager as to the results to be achieved, will provide consultation and advisory services to the City of Beverly Hills an average of 24 hours per week, with 16 hours per week to be on-site at City Hall and an additional eight hours per week off-site for a six-month period commencing June 2, 2008 and concluding November 30, 2008, unless extended or sooner terminated, as provided under this Agreement. Services will include, but not be limited to:

- Overall advice and counsel on the direction of Community Development Department with specific focus on implementation of Department's Management Assessment conducted by Matrix Consulting Group. Consultant will be expected to provide advice, coaching and recommendations regarding various professional and administrative matters. However, the actual decision and action as manager or appointing authority will be exercised by City staff, generally the City Planner or City Building Official, as appropriate.
- Ensure that staff has the advice and counsel necessary to accomplish the re-engineering of business processes associated with the opening of the Customer Service Center.
- Advise and counsel Community Development staff on improved business processes and policy development.
- Facilitate and guide development of strategic community development council goals, work plans and departmental budget.
- Coach and mentor existing staff as they manage the day-to-day operations of the department.
- Assistance, in partnership with designated recruitment firm and the Human Resources Division, with recruitment of permanent Director of Community Development; services to include participation on interview panels as requested.
- New Department Director orientation once hired.

Consultant shall be responsible for the successful completion of these and any other tasks or projects assigned to Consultant under this Agreement. Consultant shall determine the manner and means to be used, with City only interested in the results to be achieved. Consultant shall coordinate her activities with City, but shall not be required to account for her actions and activities, except as to the results to be achieved. Except as otherwise provided in this Agreement, Consultant shall furnish all tools and equipment and shall be responsible for incidental business expenses (including office supplies, office space, travel and clerical support services) incurred in connection with the services provided to the City. However, City may provide incidental facilities and clerical support for City's convenience while Consultant is on-site. Consultant's performance of services on-site is to facilitate access for purposes of advice and counsel and is not to be used as a means of monitoring or controlling the methods and means by which Consultant achieves the results required under this Agreement. Consultant shall pay all applicable self-employment taxes.

EXHIBIT B-1

SCHEDULE OF RATES

HOURLY RATE\$165.00

Compensation will not exceed \$15,840.00 per month, at an hourly rate of \$165.00; this rate is an approximate 15% reduction from normal hourly rate of \$195.00. In addition, total compensation under this Agreement will not exceed \$100,000 without prior written approval of City.

EXHIBIT B-2

Schedule of Payment

CONSULTANT shall submit monthly to the CITY an itemized statement on CONSULTANT's invoice or statement form for its services performed, which shall include documentation setting forth in detail a description of the services rendered. CITY shall pay CONSULTANT the amount of such billing within thirty (30) days of receipt of same.



CERTIFICATE OF INSURANCE

This is to certify that the following endorsement is part of the policy(ies) described below:

NAMED INSURED

COMPANIES AFFORDING COVERAGE

- A.
- B.
- C.

ADDRESS

COMPANY (A. B. C.)	COVERAGE	POLICY NUMBER	EXPIRATION DATE	B.I.	LIMITS P.D.	AGGREGATE
	<input type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> GENERAL LIABILITY <input type="checkbox"/> PRODUCTS/COMPLETED OPERATIONS <input type="checkbox"/> BLANKET CONTRACTUAL <input type="checkbox"/> CONTRACTOR'S PROTECTIVE <input type="checkbox"/> PERSONAL INJURY <input type="checkbox"/> EXCESS LIABILITY <input type="checkbox"/> WORKERS' COMPENSATION <input type="checkbox"/>					

It is hereby understood and agreed that the **City of Beverly Hills**, its City Council and each member thereof and every officer and employee of the City shall be named as joint and several assureds with respect to claims arising out of the following project or agreement:

It is further agreed that the following indemnity agreement between the **City of Beverly Hills** and the named insured is covered under the policy: Contractor agrees to indemnify, hold harmless and defend City, its City Council and each member thereof and every officer and employee of City from any and all liability or financial loss resulting from any suits, claims, losses or actions brought against and from all costs and expenses of litigation brought against City, its City Council and each member thereof and any officer or employee of City which results directly or indirectly from the wrongful or negligent actions of contractor's officers, employees, agents or others employed by Contractor while engaged by Contractor in the (performance of this agreement) construction of this project.

It is further agreed that the inclusion of more than one assured shall not operate to increase the limit of the company's liability and that insurer waives any right of contribution with insurance which may be available to the **City of Beverly Hills**.

In the event of cancellation or material change in the above coverage, the company will give **30 days** written notice of cancellation or material change to the certificate holder.

Except to certify that the policy(ies) described above have the above endorsement attached, this certificate or verification of insurance is not an insurance policy and does not amend, extend or alter the coverage afforded by the policies listed herein. Notwithstanding any requirement, term, or condition of any contract or other document with respect to which this certificate or verification of insurance may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies.

DATE: _____

BY: _____
 Authorized Insurance Representative

AGENCY: _____

TITLE: _____
 ADDRESS: _____
