ITEM NO. 14

STAFF REPORT

CITY OF OCEANSIDE

DATE: May 26, 2010

TO: Honorable Mayor and City Council

FROM: Oceanside Fire Department

SUBJECT: **PROFESSIONAL SERVICES AGREEMENT WITH THE OCEANSIDE MARINE CENTRE OF OCEANSIDE TO COMPLETE NECESSARY REPAIR OF RESCUE BOAT, AND APPROVAL OF BUDGET TRANSFER**

SYNOPSIS

Staff recommends that the City Council approve a professional services agreement with Oceanside Marine Centre in the amount of $71,561.38 to complete necessary repairs for a division rescue vessel; approve a budget transfer in the amount of $71,561.38 to fund the agreement; and authorize the City Manager to execute the agreement.

BACKGROUND

The Oceanside Fire Department has procured a rescue vessel from the Department of Harbor and Beaches. The boat was formerly used by the Oceanside Harbor Police and phased out of their rescue fleet in approximately 1996. The rescue vessel was manufactured in 1987 by Boston Whaler Commercial. This vessel model remains a popular choice for fire and rescue work on both the West and East coasts

The Lifeguard Rescue Boat will be utilized to provide trained certified water rescue personnel and equipment for aquatic emergencies. The rescue boat will provide an elevated platform for patrol and prevention of emergencies and carry emergency medical equipment. We expect this boat to play a major part in our response profile for the upcoming season. The loss of sand south of Wisconsin Street has limited our beach access for water rescue. Boat-based patrol will be our primary method of coverage for southern beaches.

ANALYSIS

The repair recommendations are based on the performance of necessary rescue duties that the vessel will be expected to undertake.

The Rescue Vessel is in need of two outboard engines, marine electronics, and minor structural and fiberglass repairs. The vessel was placed out of service approximately 14 years ago and stored on a trailer in the Harbor District. The hull and structures are

still in good condition and with new engines and repairs, its service life will be appreciably extended. The cost of repairing the vessel will be significantly less than the cost of purchasing new.

Staff sent out a Request for Quotations in January 2010. Three companies responded:

Oceanside Marine Centre	Oceanside	$71,561.38
Schock Boats/ Whaler Dealer	Newport	$63,277.27
Driscoll Marine	San Diego	$90,618.11

Upon review of the quotations, Oceanside Marine Center was the only vendor to provide a complete bid and an acceptable quote for services, and also provides a cost effective location. Boston Whaler dealer Schock Boats of Newport Beach could not deliver a complete work list quotation and the location of the company would entail additional costs for transportation. Driscoll Marine was the highest quotation.

FISCAL IMPACT

Funds in the amount of $71,561.38 will be transferred from the Fire Department temporary/part time employee account (550557101.5110) to the Repairs and Maintenance Account, where payment including sea trial will be from the 2009-10 fiscal year budgets. A savings was realized due to reduced part-time staffing during 09/10 spring break. Because of south beach sand erosion, patrolling from the shore side is not feasible; funds will be used to equip the boat to patrol from the water side during peak seasons.

INSURANCE REQUIREMENTS

The City's standard insurance requirements will be met.

COMMISSION OR COMMITTEE REPORT

This item was heard at the April 15, 2010, Police and Fire Commission meeting; the Commission recommended approval.

CITY ATTORNEY'S ANALYSIS

The referenced documents have been reviewed by the City Attorney and approved as to form.

RECOMMENDATION

Staff recommends that the City Council approve a professional services agreement with Oceanside Marine Centre in the amount of $71,561.38 to complete necessary repairs for a division rescue vessel; approve a budget transfer in the amount of $71,561.38 to fund the agreement; and authorize the City Manager to execute the agreement.

PREPARED BY:

Darryl A. Hebert
Acting Fire Chief

SUBMITTED BY:

Peter A. Weiss
City Manager

REVIEWED BY:

Michelle Skaggs-Lawrence, Deputy City Manager

Don Hadley, Deputy City Manager

Bill Curtis, Lifeguard Captain BC

Teri Ferro, Financial Services Department

Oceanside Lifeguards Boat Repair

CITY OF OCEANSIDE

PROFESSIONAL SERVICES AGREEMENT

PROJECT: Oceanside Lifeguards Boat Repair

THIS AGREEMENT, dated May 26, 2010 for identification purposes, is made and entered into by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter designated as "CITY", and Oceanside Marine Centre, hereinafter designated as "CONTRACTOR."

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **SCOPE OF WORK.** The project is more particularly described as follows: CONTRACTOR will provide boat repair services for the CITY as outlined in Attachment A.

2. **INDEPENDENT CONTRACTOR.** CONTRACTOR'S relationship to the CITY shall be that of an independent contractor. CONTRACTOR shall have no authority, express or implied, to act on behalf of the CITY as an agent, or to bind the CITY to any obligation whatsoever, unless specifically authorized in writing by the City Engineer. The CONTRACTOR shall not be authorized to communicate directly with, nor in any way direct the actions of, any bidder or the construction contractor for this project without the prior written authorization by the Project Manager. CONTRACTOR shall be solely responsible for the performance of any of its employees, agents, or subcontractors under this Agreement. CONTRACTOR shall report to the CITY any and all employees, agents, and CONTRACTOR's performing work in connection with this project, and all shall be subject to the approval of the CITY.

3. **WORKERS' COMPENSATION.** Pursuant to Labor Code section 1861, the CONTRACTOR hereby certifies that the CONTRACTOR is aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and the CONTRACTOR will comply with such provisions, and provide certification of such compliance as a part of this Agreement.

4. **LIABILITY INSURANCE.**

4.1. CONTRACTOR shall, throughout the duration of this Agreement maintain

comprehensive general liability and property damage insurance, or commercial general liability insurance, covering all operations of CONTRACTOR, its agents and employees, performed in connection with this Agreement including but not limited to premises and automobile.

4.2 CONTRACTOR shall maintain liability insurance in the following minimum limits:

Comprehensive General Liability Insurance (bodily injury and property damage)	
Combined Single Limit Per Occurrence	$ 1,000,000
General Aggregate	$ 2,000,000*
Commercial General Liability Insurance (bodily injury and property damage)	
General limit per occurrence	$ 1,000,000
General limit project specific aggregate	$ 2,000,000
Automobile Liability Insurance	$ 1,000,000

*General aggregate per year, or part thereof, with respect to losses or other acts or omissions of CONTRACTOR under this Agreement.

4.3 If coverage is provided through a Commercial General Liability Insurance policy, a minimum of 50% of each of the aggregate limits shall remain available at all times. If over 50% of any aggregate limit has been paid or reserved, the CITY may require additional coverage to be purchased by the CONTRACTOR to restore the required limits. The CONTRACTOR shall also notify the CITY'S Project Manager promptly of all losses or claims over $25,000 resulting from work performed under this contract, or any loss or claim against the CONTRACTOR resulting from any of the CONTRACTOR'S work.

4.4 All insurance companies affording coverage to the CONTRACTOR for the purposes of this Section shall add the City of Oceanside as "additional insured" under the designated insurance policy for all work performed under this agreement. Insurance coverage provided to the City as additional insured shall be primary insurance and other insurance maintained by the City of Oceanside, its officers, agents, and employees shall be excess only and not contributing with insurance provided pursuant to this Section.

4.5 All insurance companies affording coverage to the CONTRACTOR pursuant to this agreement shall be insurance organizations admitted by the Insurance Commissioner

of the State of California to transact business of insurance in the state or be rated as A-X or higher by A.M. Best.

4.6 All insurance companies affording coverage shall provide thirty (30) days written notice to the CITY should the policy be cancelled before the expiration date. For the purposes of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation.

4.7 CONTRACTOR shall provide evidence of compliance with the insurance requirements listed above by providing a Certificate of Insurance and applicable endorsements, in a form satisfactory to the City Attorney, concurrently with the submittal of this Agreement.

4.8 CONTRACTOR shall provide a substitute Certificate of Insurance no later than thirty (30) days prior to the policy expiration date. Failure by the CONTRACTOR to provide such a substitution and extend the policy expiration date shall be considered a default by CONTRACTOR and may subject the CONTRACTOR to a suspension or termination of work under the Agreement.

4.9 Maintenance of insurance by the CONTRACTOR as specified in this Agreement shall in no way be interpreted as relieving the CONTRACTOR of any responsibility whatsoever and the CONTRACTOR may carry, at its own expense, such additional insurance as it deems necessary.

5. **CONTRACTOR'S INDEMNIFICATION OF CITY.** CONTRACTOR shall indemnify and hold harmless the CITY and its officers, agents and employees against all claims for damages to persons or property arising out of the negligent acts, errors or omissions or wrongful acts or conduct of the CONTRACTOR, or its employees, agents, subcontractors, or others in connection with the execution of the work covered by this Agreement, except for those claims arising from the willful misconduct, sole negligence or active negligence of the CITY, its officers, agents, or employees. CONTRACTOR'S indemnification shall include any and all costs, expenses, attorneys' fees, expert fees and liability assessed against or incurred by the CITY, its officers, agents, or employees in defending against such claims or lawsuits, whether the same proceed to judgment or not. Further, CONTRACTOR at its own expense shall, upon written request by the CITY, defend any such suit or action brought against the CITY, its officers, agents, or employees resulting or arising from the conduct, tortious acts or omissions of the CONTRACTOR.

CONTRACTOR'S indemnification of CITY shall not be limited by any prior or subsequent declaration by the CONTRACTOR.

6. **COMPENSATION.** CONTRACTOR'S compensation for all work performed in

accordance with this Agreement, shall not exceed the total contract price of $71,561.38. A deposit of $45,000.00 will be made upon acceptance of the quote. The remaining $26,561.38 will be paid upon completion and inspection of the work, within 30-days of receipt of the invoice.

No work shall be performed by CONTRACTOR in excess of the total contract price without prior written approval of the Project Manager. CONTRACTOR shall obtain approval by the Project Manager prior to performing any work, which results in incidental expenses to CITY.

7. **ENTIRE AGREEMENT.** This Agreement comprises the entire integrated understanding between CITY and CONTRACTOR concerning the work to be performed for this project and supersedes all prior negotiations, representations, or agreements.

8. **INTERPRETATION OF THE AGREEMENT.** The interpretation, validity and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. The Agreement does not limit any other rights or remedies available to CITY.

   The CONTRACTOR shall be responsible for complying with all local, state, and federal laws whether or not said laws are expressly stated or referred to herein.

   Should any provision herein be found or deemed to be invalid, the Agreement shall be construed as not containing such provision, and all other provisions, which are otherwise lawful, shall remain in full force and effect, and to this end the provisions of this Agreement are severable.

9. **AGREEMENT MODIFICATION.** This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by the parties hereto.

10. **SIGNATURES**. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the CONTRACTOR and the CITY.

IN WITNESS WHEREOF, the parties hereto for themselves, their heirs, executors, administrators, successors, and assigns do hereby agree to the full performance of the covenants herein contained and have caused this Professional Services Agreement to be executed by setting hereunto their signatures on the dates set forth below.

CONTRACTOR	CITY OF OCEANSIDE
By: _____	By: _____
John Tyrrell / Oceanside Marine Centre	Peter Weiss / City Manager
_____	APPROVED AS TO FORM:
95 229 7046	_____
Employer ID No.	for John Mullen / City Attorney

NOTARY ACKNOWLEDGMENTS OF CONTRACTOR MUST BE ATTACHED.

J. F. QUAN
Commission # 1847466
Notary Public - California
San Diego County
My Comm. Expires May 30, 2013

5-11-10

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of San Diego

On May 11, 2010 (Date) before me, J.F. Quan, Notary Public (Here Insert Name and Title of the Officer),
personally appeared John Strong Tyrrell (Name(s) of Signer(s)),

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

J. F. QUAN
Commission # 1847466
Notary Public - California
San Diego County
My Comm. Expires May 30, 2013

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature J. F. Quan
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Professional Services Agreement

Document Date: May 26, 2010 Number of Pages: 6

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer's Name: _____
☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

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OCEANSIDE MARINE CENTRE

FOR ALL YOUR BOAT'S DESIRES.
1550 HARBOR DRIVE NORTH OCEANSIDE, CA 92054 (760)-722-1833

Estimate

01/13/2010 13185 11:59:42

1086
OPD-SERVICE
1540 HARBOR DRIVE NORTH
OCEANSIDE, CA 92054-
760 WK#760-435-4000

Year/Make: BOSTON WHALER
Model: Loa: 27
CG Number: Hrs:
Serial No:
Warr: / /

2 : C&P BOTTOM, WINTER RATE (J/F) 0% comp

Haul, clean & prep bottom, apply one full coat of premium bottom paint, apply a second coat at waterline & on rudder(s), Launch.
DO NOT CLEAN BOTTOM PAINT FOR AT LEAST FOUR MONTHS!

Material:	221.85
Labor:	651.89
Subtotal:	873.74

3 : HULL REPAIRS (J/F) 0% comp

REPAIR FIBERGLASS CRACKS ON STERN CORNERS AT OUTBOARD SWIM STEP BRACKETS
PARTS $70.00,LABOR $592.00

REPLACE 2 OUTBOARD MOTOR WELL DRAIN VALVES
PARTS $36.00,LABOR $98.00

REFASTEN LOOSE RUBRAIL,PORT AND STARBOARD SIDES
PARTS $35.00,LABOR $392.00

Material:	141.00
Labor:	1082.00
Subtotal:	1223.00

4 : ELECTRICAL/MECHANICAL REPAIRS (J/F) 0% comp

REPAIR/REMOVE/CLEANUP MISC. WIRING,REPLACE BATTERY SWITCHES
PARTS $220.00,LABOR $1260.00

REPLACE 4 27 SERIES BATTERIES
PARTS $360.00,LABOR $98.00

REPLACE HYDRAULIC STEERING SYSTEM
PARTS $1260.00,LABOR $794.00

REMOVE ALL OMC RELATED DASH INSTRUMENTS/GAUGES/SWITCHES,FABRICATE BLACK TEXTURED ABS PANELS,INSTALL
PARTS $140.00,LABOR $860.00

REPLACE BOAT SYSTEM SWITCHES LOWER RIGHT HAND SIDE OF DASH,RE-LOCATE CIRCUIT BREAKERS FROM UNDER DASH TO IN DASH FOR BETTER ACCESS
PARTS $620.00,LABOR $1460.00

Material:	2600.00
Labor:	4472.00
Subtotal:	7072.00

5 **: FUEL SYSTEM** (J/F) 0% comp

PUMP/DISPOSE OLD FUEL,CLEAN FUEL TANK,PRESSURE TEST TANK,ADD 100 GALLONS FUEL,REPLACE FUEL LINES TO TRANSOM,INSTALL WATER SEPERATOR FUEL FILTER
PARTS $560.00,LABOR $2100.00

Material:	560.00
Labor:	2100.00
Subtotal:	2660.00

6 **: OUTBOARD MOTORS** (J/F) 0% comp

REMOVE JOHNSON OUTBOARDS,INSTALL TWIN HONDA 200 HP ENGINES,NEW CONTROL BOXES,THROTTLE AND SHIFT CABLES,ENGINE WIRING HARNESSES,ENGINE INSTRUMENTS,STAINLESS STEEL PROPS-LABOR $3800.00

1-HONDA BF200 AKX,LIST $21335.00,SELL $15000.00
1-HONDA BF200 AKXC,LIST $22016.00,SELL $15500.00
1-DUAL ENGINE START/STOP PANEL $351.00
1-PREMIUM DUAL CONTROL BOX $462.00
4-THROTTLE/SHIFT CABLES @ $78.00= $312.00
2-FUEL/WATER SEPERATORS @$68.00=$136.00
2-FUEL LINE ASSEMBLIES @49.00 = $98.00
2-STAINLESS STEEL PROPS @ $380.00 = $760.00
1-DUAL ENGINE STEERING KIT $90.00
2-STEERING LINK ARMS @$71.00= $142.00
1-STEERING TIE BAR KIT $260.00
2-GAUGE SETS @ $308.00= $616.00
2-INSTRUMENT HARNESSES @$100.00= $200.00
2-ENGINE WIRING HARNESSES @ $200.00 = $400.00
MISC FASTENERS $120.00
LUBRICANTS $100.00

Material: 33931.00

			Labor:	3800.00
			Subtotal:	37731.00
7	: INSTALL ELECTRONICS	(J/F)	0% comp	

INSTALL RAYMARINE C120 SYSTEM(48 MILE
RADAR,GPS,DEPTHSOUNDER),VHF RADIO AND ANTENNA,LOUD HAILER
LABOR $1960.00
1-RAY MARINE C120 DISPLAY UNIT $3520.00
1-48 MILE/4 KW RADOME $2420.00
1-SEA TALK NETWORK SWITCH $365.00
1-DSM30 SOUNDER MODULE $530.00
1-TRANSDUCER $275.00
1-RAY 218 VHF/LOUDHAILER $580.00
1-ANTENNA/MOUNT $260.00
1-SPEAKER $64.00
MISC. PARTS $120.00

***DOES NOT INCLUDE ANY POLICE
EQUIPMENT(LIGHTS,SIRENS,RADIOS)***

			Material:	8142.00
			Labor:	1960.00
			Subtotal:	10102.00
8	: CLEANUP/SEA TRIALS	(J/F)	0% comp	

			Material:	40.00
			Labor:	440.00
			Subtotal:	480.00
9	: FREIGHT CHARGES	(J/F)	0% comp	

ENGINE FREIGHT $600.00,MISC.FREIGHT $200.00

			Material:	800.00
10	: NOTES	(T/M)	0% comp	

THIS ESTIMATE IS BASED UPON OUR INSPECTION AND DOES NOT COVER
ADDITIONAL PARTS AND LABOR WHICH MAY BE REQUIRED AFTER THE
WORK HAS BEEN STARTED,DAMAGED MATERIAL WHICH WAS NOT EVIDENT
ON OUR FIRST INSPECTION

$40,000.00 DEPOSIT DUE WHEN WORK IS STARTED,BALANCE AT SEA
TRIAL
ADDITIONAL $6000.00 DEPOSIT REQUIRED IF OUTBOARD BRACKET IS
USED

THIS ESTIMATE IS GOOD FOR 60 DAYS

11 : OPTION-ARMSTRONG BRACKET (J/F) 0% comp

INSTALL ARMSTRONG MODEL V6D2A30-14-107WB DUAL ENGINE ENGINE BRACKET
BRACKET-$4136.00
TEMPLATE $250.00
SHIPPING CRATE $100.00
MISC-$274.00

LABOR $980.00
FREIGHT $400.00

Material:	4760.00
Labor:	1380.00
Subtotal:	6140.00

Date Brought In: 02/04/2009

Total Material:	$51195.85
Total Labor:	$15885.89
Tax:	$4479.64
Total Amount:	$71561.38

WARRANTIES:
The only warranties on the product sold hereby, are those offered by the manufacturer. The Seller hereby expressly disclaims all warranties, either expressed or

implied, including any implied warranties of merchandise or fitness for a particular purpose and neither assumes nor any other person to assume for it, any liability in connection with the sale of said products. Buyer shall not be entitled to recover from the Seller any consequential damages, damages to property, damages for loss of use, loss of time, loss of profits or income or incidental damages.

STORAGE CHARGES:
Storage charges will be added on all items not picked up within ten days (10) after notice of completed service, at the rate of one half percent (1/2 %) of the value of the item per day. Any item not picked up within ninety days(90) from completion, will be offered for public sale to cover repair costs and storage.

I hereby authorize the above repair work to be done along with the necessary materials and hereby grant you and / or your employees permission to operate the unit, as necessary, for the purpose of testing and/or inspection. An express mechanic's lien is hereby acknowledged on the above unit to secure the amount of repairs thereto.

I AGREE THAT THE SELLER IS NOT RESPONSIBLE FOR ANY LOSS OR

DAMAGE TO UNIT(S) AND /OR CONTENTS IN CASE OF FIRE, THEFT, PERSONAL INJURY, OR ANY OTHER CAUSE BEYOND HIS CONTROL AND I WAIVE MY RIGHTS TO HOLD OCEANSIDE MARINE CENTRE INC. LIABLE FOR SUCH EVENTS OR DAMAGES.
IT IS THEREFORE VERY IMPORTANT THAT YOU HAVE YOUR OWN INSURANCE TO COVER SUCH LOSS OR DAMAGES !!!!!!!

BASIN/BAYS PLAN
THE DISCHARGE OF UNTREATED OR TREATED SEWAGE from vessels to Mission Bay, Oceanside Harbor, Dana Point Harbor, San Diego Bay or other small boat harbors IS PROHIBITED ! Such Discharge is the sole responsibility of the vessel owner and will result in severe fines by the Water Quality Control Board!

I have read & understand the yard safety rules & policies.

CUSTOMER'S SIGNATURE:_____ DATE:_____

WOOD BOAT:
It is clearly understood that due to the age of this boat and the weakness of the fastenings, the hull may not be able to withstand the pressures of hauling out. The owner therefore accepts all responsibility for any damage to hull and subsequent leaks, connected with this haulout.

CUSTOMER'S SIGNATURE:_____ DATE_____

Customer's signature: _____ Date: ___/___/___