



## Legislation Text

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**File #:** 22-0021, **Version:** 1

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**TO:**

Honorable Mayor and Members of the City Council

**THROUGH:**

Bruce Moe, City Manager

**FROM:**

George Gabriel, Assistant to the City Manager

**SUBJECT:**

Consideration of a Draft One Year Agreement with the City of Redondo Beach for Prosecution and Homeless Court Services in the Amount of \$300,000 (City Manager Moe).

**DISCUSS AND PROVIDE DIRECTION**

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**RECOMMENDATION:**

Staff recommends that the City Council discuss and provide direction on a draft one year agreement with the City of Redondo Beach for prosecution and homeless court services in the amount of \$300,000. Final approval of an agreement with Redondo Beach for these services is pending further City Council action authorizing staff to execute the final form of the agreement and Los Angeles County District Attorney consent for the City of Manhattan Beach to prosecute state misdemeanor crimes.

**FISCAL IMPLICATIONS:**

There are significant fiscal implications associated with transferring prosecution services from the County District Attorney (DA) to the City of Redondo Beach, and participating in the City of Redondo Beach's homeless court. The County DA's service is funded through County General Fund revenues, which include countywide property tax and sales tax revenues. Should the City of Manhattan Beach utilize the City of Redondo Beach to prosecute state misdemeanors and for homeless court services, these services would represent new out of pocket General Fund costs of \$300,000 per year. Upon further City Council action authorizing staff to execute an agreement and Los Angeles County District Attorney consent for the City of Manhattan Beach to prosecute state misdemeanors crimes, an appropriation of funds in the amount of \$300,000 from the Unreserved General Fund Balance would be required at a subsequent City Council meeting when the final agreement is presented for approval.

**BACKGROUND:**

At the March 16, 2021, meeting, City Council directed staff to agendize Council consideration of homeless court and an analysis of potential funding sources for various homeless services. Upon contacting the City of Redondo Beach City Attorney's office, they indicated they would consider providing homeless court services contingent on Manhattan Beach contracting with Redondo Beach for prosecutorial services. The Los Angeles County District Attorney currently provides prosecutorial services for the City of Manhattan Beach. Should the City of Manhattan Beach seek an alternative

source to prosecute state law misdemeanors committed within city limits, the City must first receive consent from the Los Angeles County District Attorney.

Government Code section 41803.5 provides:

“(a) With the consent of the district attorney of the county, the city attorney of any general law city or chartered city within the county may prosecute any misdemeanor committed within the city arising out of violation of state law. This section shall not be deemed to affect any of the provisions of Section 72193.

(b) In any case in which the district attorney is granted any powers or access to information with regard to the prosecution of misdemeanors, this grant of powers or access to information shall be deemed to apply to any other officer charged with the duty of prosecuting misdemeanor charges in the state, as authorized by law.”

City staff sent the City of Redondo Beach a non-binding letter of intent for homeless court service and/or prosecution services. At their May 18, 2021, meeting, the City of Redondo Beach City Council authorized Redondo Beach City Attorney Mike Webb to explore offering prosecution services (including homeless court) to the City of Manhattan Beach.

Staff provided a report on the matter at the June 1, 2021, City Council meeting (See Attachment). In the analysis, staff indicated that homeless court services were offered by the City of Redondo Beach City Attorney's Office, specifically by their City Prosecutor. The City of Redondo Beach is one of ten cities in Los Angeles County that prosecutes state misdemeanors occurring in their jurisdiction. Alternatively, the Los Angeles District Attorney's Office prosecutes felony crimes and misdemeanor crimes for the City of Manhattan Beach. This difference is particularly relevant to the City's consideration of adding homeless court services, as the primary crimes homeless individuals may be charged with are state misdemeanor crimes or municipal code violations.

Following discussion at the June 1, 2021, meeting, Manhattan Beach City Council directed staff to continue exploring homeless court, identify necessary funding and perform a cost-benefit analysis. Additionally, Council directed staff to provide information on the process to request the authority from the Los Angeles County District Attorney to prosecute state law misdemeanors.

Staff provided this analysis at the July 20, 2021, City Council meeting to: 1) continue staff's analysis of contracting with the City of Redondo Beach for prosecution and homeless court services, 2) report back to the City Council once the City of Redondo Beach provides a cost estimate for prosecution and homeless court services, 3) not contact the District Attorney's Office yet regarding County requirements for consent to prosecute state misdemeanors and 4) continue to pursue the opportunity to discuss homeless court services with Los Angeles County.

At the September 21, 2021, City Council meeting, Council authorized staff to negotiate a contract with Redondo Beach for prosecution and homeless court services, seek the Los Angeles County D.A.'s consent to prosecute state misdemeanors, and explore options for prosecution services during the period of negotiations.

## **DISCUSSION:**

Following Council direction, staff continues to explore models to provide homeless court services utilizing the County of Los Angeles District Attorney's Office or the Redondo Beach City Attorney's Office. A cost-effective method for homeless court services remains a possibility with the County of Los Angeles District Attorney's Office. Following the District Attorney's visit to homeless court in Redondo Beach in October and positive reception to adopting the homeless court model in other areas in the County, District Attorney staff continue to research the possibility. Staff has impressed upon the District Attorney's Office the need to resolve this matter quickly and get a firm commitment. This request was indicated in a letter sent by Mayor Hildy Stern on December 13, 2021 (See Attachment). On January 12, 2021, the District Attorney's Office provided a response requesting a meeting to discuss the letter.

Alternatively, at its September 21, 2021, meeting, the Redondo Beach City Council directed its City Attorney to continue exploring the possibility of providing prosecution and homeless court services to the City of Manhattan Beach. Although we have not yet received consent from the District Attorney to prosecute state misdemeanors through a different prosecutor (e.g. Redondo Beach), the Redondo Beach City Attorney has provided a draft one-year agreement (See Attachment) for prosecution and homeless court services in the amount of \$300,000 pending further City Council action authorizing staff to execute the agreement and Los Angeles County District Attorney consent for the City of Manhattan Beach to prosecute state misdemeanor crimes.

Highlights of the draft agreement that the City Council should be aware of include:

- The Redondo Beach City Attorney will serve as City Prosecutor for Manhattan Beach.
- The term of this Agreement shall commence upon approval by the District Attorney for Manhattan Beach's prosecutor to prosecute State misdemeanor violations in Manhattan Beach and is terminable at any time, with or without cause, by Manhattan Beach on one hundred and eighty (180) days written notice of termination.
- Manhattan Beach will agree to pay Redondo Beach for services rendered pursuant a flat monthly fee of \$25,000.00 (\$300,000 annually).
- Redondo Beach may terminate this Agreement at any time upon submitting one hundred and eighty (180) days written notice of termination to Manhattan Beach.
- The City of Manhattan Beach will be responsible for non-routine expenses of a non-personal and generally job affiliated nature that may be incurred by Redondo Beach and will reimburse Redondo Beach for necessary and reasonable expenses that are submitted to and approved by the City Manager.
- Specified municipal code violations for prosecutorial discretion.
- Both cities will mutually indemnify and be responsible for their own acts and omissions and that of their employees.
- The City of Redondo Beach shall review each alleged misdemeanor violation of State law for determination of whether it satisfies the legal requirements for filing a misdemeanor criminal complaint. This includes all alternative felony/misdemeanor offenses (also known as "wobbler offenses"), that are not filed by the District Attorney as felonies.
- The City of Redondo Beach shall coordinate the filing of all misdemeanor criminal complaints but does not include the clerical work in preparing the complaints which will be handled by the Manhattan Beach Police Department (MBPD). MBPD will also be responsible for securing witnesses-effectuating service of subpoenas (both civilian and law enforcement) at trial/hearings.
- The City of Redondo Beach shall complete all legal procedures for prosecution through the

municipal court system making all court appearances in connection with prosecutions including arraignment, pretrial appearances, motions, and trials (jury and court) all the way through any appeals and conclusion of each case.

- The City of Redondo Beach shall bring appropriate Manhattan Beach cases into the Homeless Court Program and require Manhattan Beach to host the Homeless Court twice per year in a suitable location.
- The City of Redondo Beach will develop and present in-service training programs and legal updates to personnel involved in the enforcement of the various laws upon request.
- The City of Redondo Beach shall provide legal support and advice on sensitive investigations.

It should be noted that the agreement provided by the City of Redondo Beach is a draft document and there are several conditions that need to continue to be negotiated. These conditions include:

- Consumer Price Index Adjustments for Potential Future Years;
- Mutual Indemnification Language;
- Termination Notice;
- Clarification of Scope of Services Language and
- Prosecution of Specific Municipal Code Violations.

Additionally, as mentioned in the background section of the report, the draft one-year agreement with the City of Redondo Beach is contingent upon the Los Angeles County District Attorney's consent for the City of Manhattan Beach to prosecute state misdemeanors (as required by state law). Therefore, the effective date of the agreement is unknown and dependent on the District Attorney's response.

### Process

Per City Council direction, staff has attempted to locate information on the process to request the authority to prosecute state law misdemeanors from the Los Angeles County District Attorney. Given the unique nature of the request, staff has not found any information regarding the process and is unaware of any City that has undergone this process recently. Therefore, if the City submitted a request to the District Attorney to prosecute state law misdemeanors, no formal process or timeframe to respond is indicated in State Law.

To clarify how Redondo Beach would proceed upon execution of any agreement, the Redondo Beach City Attorney has proposed a process to ensure an orderly transition. The following steps stated in Redondo Beach's proposal are:

1. "Within 30 days of a) the initial decision by both City Councils for Redondo Beach to provide City Prosecutor services and b) subsequent approval by the District Attorney, the final language of the contract is prepared and presented to the two City Councils for approval.
2. Concurrently with the contract being finalized and approved, Redondo Beach personnel will meet with the District Attorney's Office to determine the status of the court calendar for Manhattan Beach misdemeanor cases, the number of upcoming cases set for trial and otherwise prepare for a smooth transition.
3. Also during this time period, the Redondo Beach City Attorney will make a formal request to Site Supervising Judge Alan B. Honeycutt to consolidate the Manhattan Beach misdemeanor cases into the same two courtrooms in the Torrance Courthouse where the Redondo and Hermosa cases are assigned to maximize our efficiency in handling these cases.

4. Prosecution Division personnel will familiarize themselves with the unique law enforcement challenges facing Manhattan Beach. This will involve meetings with Police Command Staff, meeting with Detective Bureau personnel and setting up ride-alongs with patrol officers.
5. On the first effective day of the contract, Redondo Beach Prosecutors will commence prosecution services to Manhattan Beach. The Prosecution Division of the Redondo Beach City Attorney's Office provides full and complete prosecution service on a daily basis. This Division is devoted full-time to providing the full range of prosecution services and does not have any responsibilities or conflicts on the civil side of the office. We will provide the same level of service for Manhattan Beach if selected. At a minimum, this will involve reviewing any in-custody cases for filing every morning, Monday through Friday, before going to court. At court, all cases on calendar (including any "walk-ins") will be handled until the court calendar is cleared. All jury trials and appeals will be prosecuted. Moreover, the City Attorney will provide his cell phone and will agree to be contacted anytime of the day or night seven days a week if needed for urgent prosecution matters as he currently does in Redondo Beach and Hermosa Beach.
6. Quarterly reviews will be set up in advance to allow Police Command Staff and other interested Manhattan Beach Personnel to share their thoughts on what is working and areas of concern or that need improvement. Much of this will naturally occur due to the constant communications that our prosecutors will have with the Police Department. However, we still recommend that regular meetings are maintained so that nothing falls through the cracks."

#### Prosecution Implications

Depending on the nature of a crime committed in Manhattan Beach, different prosecutorial paths can be taken. Felony crimes such as: burglaries, robberies, vandalism, criminal threats, rape, and murder are under the prosecutorial jurisdiction of the Los Angeles County District Attorney, regardless of whether a City has a prosecutorial division. State Misdemeanor crimes such as: assault on an officer, trespassing, assault and batteries (varies), drug and paraphernalia possession, minor in possession of alcohol, drinking in public, public intoxication, under the influence of controlled substance and loitering to commit prostitution are under the prosecutorial jurisdiction of the Los Angeles County District Attorney unless a City has its own prosecutorial authority to prosecute state misdemeanors. Juvenile misdemeanor crimes are handled through juvenile diversion services provided by Beach Cities Health District utilizing Joan Jenkins. Depending on the nature of a juvenile crime, this matter can potentially be prosecuted to the Los Angeles County District Attorney. Common municipal code violations such as: park violations, smoking in public, selling without a business license, bike safety, construction hours, or land use issues are typically escalated by the City utilizing an administrative citation process.

To illustrate the difference between how prosecutorial paths may differ between the City's current model of prosecution and a potential model that includes the City of Redondo Beach's service, staff has provided a summary below.

#### Current Model of Prosecution

- Felonies - County District Attorney
- State Misdemeanors - County District Attorney
- Juvenile Misdemeanors (i.e. Diversion Program) - Joan Jenkins (via Beach Cities)

- Health District)
- Municipal Code Violations - City of Manhattan Beach

Potential Model of Prosecution Utilizing Redondo Beach

- Felonies - County District Attorney
- State Misdemeanors - City of Redondo Beach City Attorney
- Juvenile Misdemeanors (i.e. Diversion Program) - Joan Jenkins (via Beach Cities Health District)
- Municipal Code Violations - Combination of City of Manhattan Beach/City of Redondo Beach City Attorney

Future of County Prosecution Services

If City Council transferred prosecution services from the District Attorney to Redondo Beach, it is unclear whether the City could return to County services in the future. Additionally, if the City was granted the ability to return to County services, it is also uncertain whether these services would have zero impact to the City's General Fund Budget as they do now.

**CONCLUSION:**

Staff recommends that the City Council discuss and provide direction on a draft one year agreement with the City of Redondo Beach for prosecution and homeless court services in the amount of \$300,000. The final agreement is pending further City Council action authorizing staff to execute agreement and Los Angeles County District Attorney consent for the City of Manhattan Beach to prosecute state misdemeanor crimes.

**LEGAL REVIEW:**

Special Counsel has reviewed the draft agreement as to form.

**ATTACHMENTS:**

1. Draft Agreement - City of Redondo Beach
2. Staff Report - June 1, 2021
3. Staff Report - July 20, 2021
4. Staff Report - September 21, 2021
5. Letter to DA Gascon from Mayor Stern (December 12, 2021)
6. PowerPoint Presentation