

Council/Agency Meeting Held: _____	City Clerk's Signature _____
Deferred/Continued to: _____ <input type="checkbox"/> Approved <input type="checkbox"/> Conditionally Approved <input type="checkbox"/> Denied	
Council Meeting Date: 9/19/2005	Department ID Number: AD05-013

**CITY OF HUNTINGTON BEACH
REQUEST FOR CITY COUNCIL ACTION**

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 CITY CLERK
 CITY OF
 HUNTINGTON BEACH, FLA.
 2005 SEP - 8 1:12 PM

SUBMITTED TO: HONORABLE MAYOR CITY COUNCIL MEMBERS

SUBMITTED BY: PENELOPE CULBRETH-GRAFT, CITY ADMINISTRATOR

PREPARED BY: CHARLES THOMAS, ACTING DEPUTY CITY ADMINISTRATOR

SUBJECT: APPROVE EMPLOYMENT AGREEMENT BETWEEN THE CITY OF HUNTINGTON BEACH AND STANLEY SMALEWITZ AS DIRECTOR OF ECONOMIC DEVELOPMENT

Statement of Issue, Funding Source, Recommended Action, Alternative Action(s), Analysis, Environmental Status, Attachment(s)

Statement of Issue:

A recruitment has been completed for the position of Director of Economic Development. As a result, the City Administrator is recommending the appointment of Stanley Smalewitz to the position as required by the City Charter.

Funding Source:

The position of Director of Economic Development is scheduled to be a budgeted position in the fiscal year 2005/2006. No additional funding is required.

Recommended Action:

1. Approve the appointment of Stanley Smalewitz to the position of Director of Economic Development and:
2. Approve and authorize execution by the City Administrator the Employment Agreement between the City of Huntington Beach and Stanley Smalewitz to the position of Director of Economic Development.

Alternative Action(s):

Do not approve the appointment of Stanley Smalewitz to the position of Director of Economic Development.

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REQUEST FOR ACTION

MEETING DATE: 9/19/2005

DEPARTMENT ID NUMBER:AD05-013

Analysis: On April 7, 2005, the position of Director of Economic Development for the City of Huntington Beach became vacant with the resignation of the Director. Since that time, the position has been filled with an acting director while recruitment for a replacement could be completed.

A Request for Proposal (RFP) process for an executive search firm had been completed and a list of qualified vendors had been established. The following consulting firms had submitted proposals: Avery and Associates, The Davis Company, The Mills Group, Alliance Resource Consulting LLC, Robert Consulting Group and Bob Murray and Associates. The proposals were reviewed, evaluated and a list of qualified firms was established. Alliance Resource Consulting LLC was one of the qualified firms. After further review for this recruitment, a contract for professional services was awarded to Alliance Resource Consulting LLC to conduct the recruitment for the Director of Economic Development. Alliance Resource Consulting LLC is well known and respected in the field of executive recruitment in the public sector.

The recruitment was positive and resulted in 60 applicants for the position. The applications were screened and five of those candidates were invited to an interview panel. The panel consisted of City of Huntington Beach Acting Public Works Director Paul Emery, City of Huntington Beach Police Chief Kenneth Small, City of Huntington Beach Economic Development Consultant Michael Hennessy, City of Huntington Beach Community Participation Advisory Board (CPAB) Chairperson Jerry Lipson, Laguna Woods City Manager Leslie Keane, Robert Mayer Corp. Vice President Shawn Millbern, City of Chino Redevelopment Director Earl Nelson and City of Huntington Beach Acting Administrative Services Director Charles Thomas.

City Administrator Dr. Penelope Culbreth-Graft conducted follow-up interviews with the finalists as recommended by the interview panel. As a result, she recommends City Council approval to appoint Stanley Smalewitz to the position of Director of Economic Development for the City of Huntington Beach effective October 24, 2005. A background/reference check of Mr. Smalewitz was conducted with positive results. Mr. Smalewitz is currently the Director of Community Development for the City of Commerce. He has worked in the economic development field since 1979. His resume is attached.

Environmental Status:

N/A

Attachment(s):

City Clerk's Page Number	No.	Description
3	1.	Employment Agreement between the City of Huntington Beach and Stanley Smalewitz for the position of Director of Economic Development
13	2.	Resume of Stanley Smalewitz

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ATTACHMENT #1

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**EMPLOYMENT AGREEMENT BETWEEN
THE CITY OF HUNTINGTON BEACH AND
STANLEY SMALEWITZ**

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**EMPLOYMENT AGREEMENT BETWEEN
THE CITY OF HUNTINGTON BEACH AND
STANLEY SMALEWITZ**

THIS AGREEMENT is entered into between the City of Huntington Beach, a California municipal corporation, subsequently called "City," and Stanley Smalewitz, subsequently called "Smalewitz."

WITNESSETH

The City Administrator has been empowered to appoint and remove department heads, with approval of the City Council; and

The City, through the City Administrator, desires to employ the services of Smalewitz as a department head, Director of Economic Development of the City of Huntington Beach; and

It is the desire of the City to provide certain benefits, establish certain conditions of employment, and to set working conditions of Smalewitz; and

It is the desire of the City to:

(1) Secure and retain the services of Smalewitz and to provide inducement for him to remain in such employment;

(2) To provide a means for terminating Smalewitz's service at such time as he may be unable fully to discharge his duties due to disability or when City may otherwise desire to terminate his employ; and

Smalewitz desires to accept employment as Director of Economic Development of the City;

NOW, THEREFORE, in consideration of the mutual covenants here contained, the parties agree as follows:

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SECTION 1. DUTIES. City agrees to employ Smalewitz as Director of Economic Development of the City to perform the functions and duties of that office as set forth in the Municipal Code of the City of Huntington Beach and the City Charter, and to perform other legally permissible duties and functions as the City Administrator shall from time to time assign. Smalewitz shall devote his full attention and effort to the office and perform the mentioned duties and functions in a professional manner.

SECTION 2. STATUS AND TERM.

(a) Smalewitz shall serve for an indefinite term at the pleasure of the City Administrator and shall be considered an at-will employee of the City. Smalewitz's first day of work pursuant to this Agreement shall be October 24, 2005.

(b) Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the City Administrator to terminate the employment of Smalewitz at any time, subject only to the provisions set forth in Section 6, paragraphs (a), (b) and (c) of this Agreement, and Section 401 of the Charter of the City of Huntington Beach.

(c) Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of Smalewitz to resign at any time from his position with the City, subject only to the provisions set forth in Section 6, paragraph (d), of this Agreement.

(d) Smalewitz agrees to remain in the exclusive employ of City for an indefinite period and shall neither accept other employment or become employed by any other employer without the prior written approval of the City Administrator until notice of resignation is given.

The term "employed" (and derivations of that term as used in the preceding paragraph) shall include employment by another legal entity or self employment, however, shall not be

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construed to include occasional teaching, writing, consulting, or military reserve service performed on Smalewitz's time off, and with the advance approval of the City Administrator.

SECTION 3. SALARY. City agrees to pay Smalewitz for his services rendered pursuant to this Agreement at Range 645, Step E of the City's classification and compensation plan or resolutions or ordinances from time to time enacted that govern such compensation.

SECTION 4. OTHER BENEFITS. In addition to the foregoing benefits, Smalewitz shall also receive all such other benefits that are generally applicable to nonassociated employees (department heads) hired after December 27, 1997, as set forth in Exhibit A, attached hereto.

SECTION 5. ADMINISTRATIVE LEAVE. City Administrator may place the Smalewitz on Administrative Leave with full pay and benefits at any time during the term of this Agreement.

SECTION 6. TERMINATION AND SEVERANCE PAY.

(a) Except as provided in subsection (b), in the event the City Administrator terminates the employment of the Smalewitz, and during such time that Smalewitz is willing and able to perform his duties under this Agreement, then, the City shall pay to Smalewitz a severance payment equal to salary payments which Smalewitz would have been receiving over a twelve week period at Smalewitz's current rate of pay in effect on the day prior to the date of termination. In addition, for the lesser of ninety (90) calendar days after the date of termination or the time Smalewitz secures health and medical insurance through attainment of comparable employment, the City shall maintain and pay for health, medical, disability, the continuation of retirement benefits and life insurance in such amounts and on such terms as have been received by Smalewitz and Smalewitz's dependents at the time of such termination; however, no other or additional benefits shall accrue during this ninety (90) calendar-day period.

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(b)(1) Notwithstanding subsection (a) above, the following reasons shall constitute grounds to terminate the employment of Smalewitz without severance pay:

- (i) a willful breach of this agreement or the willful and repeated neglect by Smalewitz to perform duties that he or she is required to perform;
- (ii) conviction of any criminal act relating to employment with the City;
- (iii) conviction of a felony.

(2) Prior to the time that the City Administrator terminates Smalewitz without severance pay for any of the reasons set forth in Section (b)(1) above, and only in that case, the City Administrator shall provide Smalewitz with written notice of proposed termination which contains the reason and factual basis for such action. Within ten days of such notice, Smalewitz may request an opportunity to respond to the reasons and factual basis provided by the City Administrator. If such a request to respond is made, the City Administrator shall conduct a meeting, which may be informal in nature, at which Smalewitz may respond to the notice of proposed termination. At such meeting, Smalewitz may be represented by an attorney of his choice and present evidence or information relevant to the reasons and factual basis set forth in the notice of proposed termination. Subsequently, the decision of the City Administrator as to whether reasons set forth in Section (b)(1) exist or do not exist shall be final as between the parties.

(c) In the event the City at any time during the term of this Agreement reduces the salary of Smalewitz from its then current year level, except as part of an across-the-board reduction for all department heads of City, or in the event City refuses, following written notice, to extend to Smalewitz any nonsalary benefit customarily available to all department heads, or in the event Smalewitz resigns following a suggestion, whether formal or informal, by the City

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Administrator that he or she resign, then, in those events, Smalewitz may, at his option, be deemed to be "terminated" at the date of such reduction or such refusal to extend or such suggestion of resignation within the meaning and context of the severance pay provision in paragraph (a) above; provided that such option to be deemed terminated must be exercised by written notice from Smalewitz to the City Administrator within ten (10) working days of notification of such reduction, refusal to extend, or suggestion of resignation. In that event, the severance payment shall be calculated from the date Smalewitz exercises the option to be deemed terminated.

(d) In the event Smalewitz voluntarily resigns his position, Smalewitz shall give City written notice at least thirty (30) days prior to the last workday, unless the City Administrator and Smalewitz otherwise agree. Unless there is agreement to the contrary, if Smalewitz fails to provide such notice to the City Administrator, any right to accrued benefits for sick pay shall terminate.

(e) It is understood that after notice of termination in any form, Smalewitz and City will cooperate to provide for an orderly transition. Specific responsibilities during such transition may be specified in a written separation agreement.

SECTION 7. DISABILITY. If Smalewitz is totally disabled or otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity or ill health, he or she shall be eligible for Disability Leave upon exhausting all accrued sick leave and vacation leave, and duty injury leave if applicable. Disability Leave shall be unpaid and shall be approved by the City Administrator for a time period of up to three (3) months. The length of such time period of the Disability Leave shall be dependent upon the length of the disability as demonstrated by Smalewitz. If Smalewitz is unable to return to work at that time, City shall have the option to

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terminate the employment of Smalewitz, subject to the requirements imposed on the City by Section 6, paragraph (a).

SECTION 8. PERFORMANCE EVALUATION. The City Administrator shall review and evaluate in writing the performance of Smalewitz at least once annually. That review and evaluation shall be in accordance with specific criteria developed in consultation with Smalewitz and City Administrator. Those criteria may be added to or deleted from as the City Administrator may from time to time determine, in consultation with Smalewitz.

SECTION 9. PROFESSIONAL DEVELOPMENT. City agrees to budget and pay for professional memberships normally accorded department heads. Smalewitz shall also receive paid leave, plus registration, travel and reasonable expenses for short courses, conferences and seminars that are necessary for his personal development and, in the judgment of the City Administrator, for the good of the City, and subject to budget limitations and to established travel policies and procedures.

SECTION 10. FINANCIAL DISCLOSURE. Smalewitz shall report to the City Administrator any ownership interest in real property within the County of Orange, excluding personal residence. Also, Smalewitz shall report to the City Administrator any financial interest greater than Ten Thousand Dollars (\$10,000) in value in a firm doing work for the City or from which the City intends to make a purchase. Such reporting shall be made in writing by the Smalewitz to the City Administrator within ten (10) calendar days of the execution of this agreement and further within ten (10) calendar days of acquisition of that interest in real property. Additionally, Smalewitz shall report in writing to the City Administrator any financial interest greater than Ten Thousand Dollars (\$10,000) in value in a firm doing work for the City or from

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whom the City intends to make a purchase immediately upon notice of the intended work or purchase.

SECTION 11. INDEMNIFICATION. City shall defend and indemnify Smalewitz against any action, including but not limited to any: tort, professional liability claim or demand, or other noncriminal legal, equitable or administrative action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Smalewitz's duties as an employee or officer of the City, other than an action brought by the City against Smalewitz, or an action filed against the City by Smalewitz. In addition, the City shall pay the reasonable expenses for the travel, lodging, meals, and lost worktime of Smalewitz should Smalewitz be subject to such, should an action be pending after termination of Smalewitz. City shall be responsible for and have authority to compromise and settle any action, with prior consultation with Smalewitz, and pay the amount of any settlement or judgment rendered on that action. Smalewitz shall cooperate fully with the City in the settlement, compromise, preparation of the defense, or trial of any such action.

SECTION 12. GENERAL PROVISIONS.

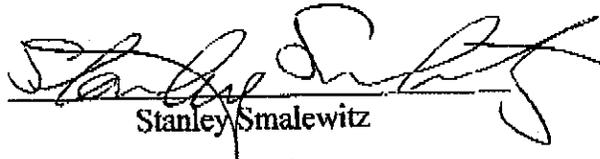
- (a) The text here shall constitute the entire Agreement between the parties.
- (b) This Agreement shall become effective commencing October 24, 2005.
- (c) If any provision, or any portion of any provision, contained in this Agreement is held unconstitutional, invalid, or unenforceable, the remainder of this Agreement, or any portion of it, shall be deemed severable, shall not be affected and shall remain in full force and effect.
- (d) No amendment of this Agreement shall be effective unless in writing and signed by both parties here.

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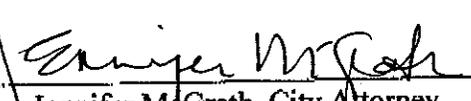
IN WITNESS WHEREOF, the City of Huntington Beach has caused this Agreement to be signed and executed on its behalf by its City Administrator, and Smalewitz has signed and executed this Agreement, both in duplicate, on _____, 2005.

THE CITY OF HUNTINGTON BEACH:

By: _____
Penelope Culbreth-Graft
City Administrator


Stanley Smalewitz

APPROVED AS TO FORM:


Jennifer McGrath, City Attorney 9/7/05

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ATTACHMENT #2

Stanley Smalewitz

EDUCATIONAL BACKGROUND

Bachelor of Arts - International Relations - 1976 University of Southern California;
Los Angeles, CA

CERTIFICATION

Licensed General Contractor. Additional classifications in Electrical, Plumbing, Home Improvement, and Painting - California State Contractors License Board

SUMMARY OF EXPERIENCE

2003 to Present **City of Commerce, CA** (Population: 13,000)
Community Development
Director

When originally hired my Departmental responsibilities involved the management of the following divisions: Planning & Zoning; Building & Safety; Redevelopment; Economic Development; and Housing. Four months into my tenure the Council approved a reorganization, which merged Engineering, Public Works, Street Maintenance, the water company and Municipal Facilities Management into the Community Development Department under my direct Supervision. During the twenty seven months I have been in this position: I have guided my departmental through its budgets and midyear corrections; successfully enable the Redevelopment Agency fund a \$44 million Bond Issue; Added three new Planning Ordinances to the Municipal Code; Designated an Old Town District; Negotiated Three Exclusive Negotiating Agreements ("ENA's"); along with Rebuilding a neighborhood partially demolished by a major 31 cars Union Pacific Railroad derailment; and selling the Citadel Outlet Mall to a private Developer to ensure it's expansion by an additional three hundred thousand square foot (100 new stores) I manage a total budget of \$44.8 million and 47 employees, along with some 12 venders and consultants for this Contract City

1994 to 2003 **City of Alhambra, CA** (Population: 85,804)
Housing and Economic Development
Deputy Director of Development Services

1988 to 1994 **Urban Futures, Inc.** (Los Angeles, CA)
Housing Director

1988 to 1988 **City of Riverside, CA** (Population: 255,166)
Assistant Housing Director

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- 1981 to 1988** **City of Inglewood, CA** (Population: 112,580)
Neighborhood Preservation Supervisor
- 1979 to 1981** **City of Los Angeles, CA** (Population: 3,694,820)
Community Redevelopment Agency
Pico Union
Principal Construction Supervisor
- 1977 to 1979** **William L. Pereira & Associates-Architects, Planners & Engineers** (Los Angeles, CA)
Planner

OTHER QUALIFICATIONS

Deputy Director of Development Services/Housing & Economic Development
City of Alhambra, CA 1994-Feb 2003

Originally employed by the City as its Housing Manager, my responsibilities were expanded to also include Economic Development Manager (which included the redevelopment division. Subsequently, I was promoted to the Deputy Director position that oversees the advanced and current planning, zoning, and building divisions along with my continued responsibilities for the housing, economic development and redevelopment divisions.

Housing Director
Urban Futures, Inc. 1988-1994

Assisted some 15 California Cities and Agencies providing planning, redevelopment and housing plans, programs, procedures and guidelines as required. The range of services included site selection, negotiations with property owners, assembling sites, Multi-family revenue bond housing projects, and formation of redevelopment project areas, market analysis, pro-forma reviews, land use entitlement, and project administration for commercial and residential projects.

Assistant Housing Director
City of Riverside, CA 1988-1988

Responsible for overseeing all of the responsibilities and new housing programs for six project areas, along with working with the six ethnically diverse project area committees to develop these programs.

Neighborhood Preservation Supervisor
City of Inglewood, CA. 1981-1988

Supervised staff, prepared budgets, designed housing rehabilitation programs, their implementation and new residential development. Also served as Acting Housing Division Manager whose responsibilities included the administration of the City's Housing Authority.

Principal Construction Supervisor - Pico Union

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Community Redevelopment Agency, City of Los Angeles 1979-1981

Directed the commercial, residential and industrial activities for the Agency in the Pico Union Project Area. The range of projects included substantial rehabilitation programs, the construction management of redevelopment projects along with the restoration of historical structures in this district of the City. Originally hired as a Rehabilitation Specialist.

Project Planner

William L. Pereira & Associates, Architects, Planners, & Engineers 1977-1979

Analyzed planning, housing, environmental issues, and cost benefit studies for this firm. The projects on which I worked included the Town Center Plan for the City of Irvine and the design, planning and implementation of two new towns in the gulf state of Qatar.

ADDITIONAL EDUCATION

Graduate Studies in Urban & Regional Planning 1974-1976
University of Southern California

AWARDS:

2004 Helen Putnam Award-California League of Cities-Housing-Vista Del Rio Homes

2002 CRA Award-Best Commercial Development

2000 CRA Award-Best Mixed Use Project

1999 HUD Best Practices Award-Housing Rehabilitation Programs

COMPENSATION

Mr. Smalewitz reports a current base salary of \$119,750, plus a full benefits package.

Address: 4509 Guava Avenue
Seal Beach, CA 90740

Telephone: **Home:** (562) 493-0126
Work: (323) 722-4805
Cellular: (323) 595-5776

Email: smalewitz01@verizon.net

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