

Robert E. Shannon  
City Attorney of Long Beach  
333 West Ocean Boulevard  
Long Beach, California 90802-4664  
Telephone (562) 570-2200

AGREEMENT FOR LEGAL SERVICES

**30012**

THIS AGREEMENT FOR LEGAL SERVICES is made and entered, in duplicate, as of April 4, 2007, for reference purposes only, pursuant to a minute order adopted by the City Council of the City of Long Beach at its meeting held on April 3, 2007, by and between the LAW OFFICES OF RUSSELL G. PETTI ("Special Counsel") and the CITY OF LONG BEACH, a municipal corporation ("City").

WHEREAS, the City Attorney has identified a need for the legal services of Special Counsel and Special Counsel is willing and able to perform those services; and

WHEREAS, the City and Special Counsel must cooperate to deliver quality legal services in an efficient manner and desire to follow the parameters of this agreement toward that end;

WHEREAS, the estimated expenditure for the Services was expected to be less than One Hundred Thousand Dollars (\$100,000.00), Purchase Order BPLW05-20 ("Purchase Order") was issued by City; and

WHEREAS, several factors have caused the estimated expenditures to exceed One Hundred Thousand Dollars (\$100,000.00) so that a contract for services is now required by the Municipal Code;

NOW, THEREFORE, in consideration of the mutual terms and conditions contained herein, the parties agree as follows:

1. The term of this Agreement shall commence on August 1, 2005, which is the commencement date of the Purchase Order, provided, however, that City shall have the right to terminate this Agreement without penalty and without cause by giving fifteen (15) days prior notice to Special Counsel.

2. Scope of Services. Special Counsel shall perform all legal services necessary and appropriate to the Matter for which Special Counsel has been engaged, namely: to assist the City Attorney of Long Beach in the matter entitled, Insurance Co.

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1 of the State of Pennsylvania, et al., vs. City of Long Beach, et al., Case No. CV04-8650  
2 ER (Rzx) (the "Services" or the "Matter"). The City has engaged Special Counsel  
3 because Special Counsel is uniquely qualified in the area of law required.

4 3. A. Because the City has engaged Special Counsel due to its expertise  
5 and reputation, Special Counsel and the City Attorney or designee will agree on a  
6 staffing profile that identifies the partners, associates, and paralegals who are  
7 authorized to work on the Matter, including their respective billing rates, which will be  
8 attached as Addendum subsequent to execution of this Agreement. Individuals whose  
9 names are not included in the staffing profile may not work on the Matter without the  
10 prior approval of the City Attorney, or designee. The City reserves the right to refuse to  
11 pay for work performed by any individual whose name is not listed or who has not  
12 received such prior approval, or whose rate has not been approved.

13 B. Special Counsel shall not hire or otherwise incur any obligation to pay  
14 other counsel, specialists, consultants, or experts for services in connection with the  
15 Matter without the prior written approval of the City Attorney or designee.

16 4. Fee. City shall pay to Special Counsel in due course of payments  
17 compensation at the hourly rates identified in the staffing profile and reimbursement of  
18 costs as further described herein and in the "Guidelines" also attached hereto, not to  
19 exceed One Hundred Ninety Five Thousand Dollars (\$195,000.00).

20 5. Billing. A. Special Counsel shall keep a record of time spent on the  
21 matter in increments of one-tenth (.1) of an hour.

22 B. Each task shall be distinctly and completely identified; the City will not  
23 pay invoices which contain block billing. The billing entry must contain the name or  
24 initials of the individual performing the task, the nature of the task, the date it was  
25 performed, and the length of time it took.

26 C. The City will not pay for the use of attorneys and paralegals to perform  
27 Services which are secretarial or administrative.

28 D. The City reserves the right to audit all invoices. The City will not pay

1 for costs incurred by Special Counsel in preparing an invoice, correcting it, or  
2 resubmitting it.

3 E. Special Counsel shall submit invoices no later than the last day of the  
4 month following the month in which Services were performed and actual costs incurred.  
5 If Special Counsel submits invoices after said date, then the invoice(s) may be subject  
6 to a discount of ten percent (10%) for each month or portion thereof that the invoice is  
7 not timely submitted.

8 5. Costs. The City will reimburse Special Counsel for the reasonable  
9 costs incurred by Special Counsel as a result of its representation of the City in the  
10 Matter, in accordance with the Guidelines. Costs shall be actual, without the addition of  
11 administrative or overhead charges, and must be documented. The City will not pay for  
12 costs that do not contain supporting documentation satisfactory to the City Attorney, or  
13 designee.

14 6. Term. The term of this Agreement shall begin at 12:01 a.m. on August  
15 1, 2005, and shall end when the Matter is concluded or on fifteen (15) days' prior notice  
16 from the City to Special Counsel.

17 7. Insurance. As a condition precedent to the effectiveness of this  
18 Agreement, Special Counsel shall procure and maintain at its expense for the duration  
19 of this Agreement from insurance companies admitted to write insurance in California  
20 or from authorized non-admitted insurance companies that have ratings of or equivalent  
21 to A:VIII by A.M. Best Company professional liability or errors and omissions liability  
22 insurance in an amount not less than One Million Dollars (\$1,000,000) per claim.

23 Any self-insurance program, self-insured retention or deductible must be  
24 separately approved in writing by the City's Risk Manager or designee and shall protect  
25 the City, its officials, employees and agents in the same manner and to the same extent  
26 as they would have been protected had the policy or policies not contained retention or  
27 deductible provisions. Each insurance policy shall be endorsed to state that coverage  
28 shall not be reduced, non-renewed, or canceled except after thirty (30) days prior

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1 written notice to the City, and shall be primary and not contributing to any other  
2 insurance or self-insurance maintained by the City, its officials and employees. Special  
3 Counsel shall notify the City in writing within five (5) days after any insurance required  
4 herein has been voided by the insurer or canceled by the insured.

5 Special Counsel shall deliver to the City certificates of insurance and  
6 original endorsements for approval as to sufficiency and form prior to the start of  
7 performance hereunder. The certificate and endorsements for each insurance policy  
8 shall contain the original signature of a person authorized by that insurer to bind  
9 coverage on its behalf. The procuring or existence of insurance shall not be deemed  
10 or construed as a limitation on Special Counsel's liability or as performance of or  
11 compliance with any indemnity provisions herein. City reserves the right to require  
12 complete certified copies of all policies at any time. Special Counsel shall make  
13 available to the City all books, records, and other information relating to the insurance  
14 required herein during normal business hours. Any modification or waiver of the  
15 insurance requirements herein shall only be made with the approval of the City Risk  
16 Manager or designee. In addition, Special Counsel shall, at least thirty (30) days prior  
17 to expiration of the insurance required hereunder, furnish to the City certificates of  
18 insurance and endorsements evidencing renewal of such insurance.

19 8. Conflict of Interest. Special Counsel, by executing this Agreement,  
20 certifies that, at the time Special Counsel executes this Agreement and for the duration  
21 of this Agreement, Special Counsel does not have and will not perform services for any  
22 other client which would create a conflict as between the interests of the City hereunder  
23 and the interests of such other client, subject to written waiver by the City.

24 9. Nondiscrimination. In connection with performance of Services and  
25 subject to applicable rules and regulations, Special Counsel shall not discriminate on  
26 the basis of race, religion, national origin, color, age, sex, sexual orientation, AIDS, HIV  
27 status, handicap, or disability. It is the policy of the City to encourage the participation  
28 of Minority Business Enterprises and Women-owned Business Enterprises and the City

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1 urges Special Counsel to do likewise.

2           10. Miscellaneous. A. This Agreement shall not be amended, nor any  
3 provision or breach hereof waived except in writing signed by the parties which refers to  
4 this Agreement.

5           B. This Agreement shall be governed by and construed pursuant to the  
6 laws of the State of California. Special Counsel shall comply with all laws, ordinances,  
7 rules, and regulations covering performance of Services.

8           C. This Agreement, including the Guidelines and exhibits, if any,  
9 constitutes the entire understanding between the parties and supersedes all other  
10 agreements, oral or written, with respect to the Services and the Matter.

11           D. If there is any inconsistency or ambiguity between this Agreement, the  
12 Guidelines, or the Addendum, this Agreement shall control.

13           E. If there is any legal proceeding between the parties to enforce or  
14 interpret this Agreement or to protect or establish any rights or remedies hereunder, the  
15 prevailing party shall be entitled to its costs and expenses, including reasonable  
16 attorney's fees and court costs (including appeals).

17           F. The acceptance of Services or payment of money by the City shall not  
18 operate as a waiver of any provision of this Agreement. The waiver of any breach of  
19 this Agreement shall not constitute a waiver of any other or subsequent breach of this  
20 Agreement.

21           G. This Agreement is intended by the parties to benefit themselves only  
22 and is not in any way intended or entered for the purpose of creating any benefit or right  
23 for any person or entity that is not a party to this Agreement.

24           11. Notice. Notice shall be in writing and personally delivered or  
25 deposited in the U.S. Mail, first class, postage prepaid to Special Counsel at the Law  
26 Offices of Russell G. Petti, 466 Foothill Boulevard, #389, La Canada, CA 91011, Attn:  
27 Russell Petti and to the City at 333 West Ocean Boulevard, Long Beach, CA 90802  
28 Attn: City Attorney. Notice may be given by fax to the City Attorney at (562) 436-1579

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1 and to Special Counsel at (818) 952-2186, provided that duplicate notice is  
2 simultaneously delivered or mailed. Notice shall be deemed given on the date of  
3 personal delivery or forty-eight hours after deposit in the mail. Notice of change of  
4 address shall be given as described herein for other notices.

5 IN WITNESS WHEREOF, the parties have caused this document to be  
6 executed with all of the formalities required by law as of the date first stated above.

7 LAW OFFICES OF RUSSELL G. PETTI

10 Date: April 3, 2007

8  
9  
By [Signature]  
11 Title: Principal

12 CITY OF LONG BEACH, a municipal  
13 corporation

14 Date: April 9, 2007

15 By **ASSISTANT** Christine J. Shippey  
City Manager

16 APPROVED BY THE  
17 TO SECTION 501 OF  
18 THE CITY CHARTER.

19 This Agreement is approved as to form on April 9, 2007

20 ROBERT E. SHANNON, City Attorney

21 By [Signature]  
22 Assistant City Attorney

23  
24  
25 DFG:rmb(2-11-99;Rev.6-2-00;2-16-01; 12-2-05)  
26 S:\GWIN\SPECIALCOUNSEL\AGRMT.BOI

1 GUIDELINES FOR BILLING

2  
3 In addition to the provisions stated in the Agreement, the following  
4 guidelines for billing apply:

5 1. The City expects each individual working on the Matter to have the  
6 necessary experience to perform the Services required to protect or pursue the City's  
7 interests in the Matter in a cost effective manner.

8 2. The City expects Special Counsel to select the individual most suitable  
9 for the task required and the specific needs of the Matter, and to use the maximum  
10 efficiencies available. Billings for services performed by the inappropriate level of  
11 personnel will be reduced by the City based on rate adjustments for the appropriate  
12 level of personnel.

13 3. The City Attorney or designee may request a written budget and  
14 timeline for the Matter. The budget shall include all projected fees and costs to be  
15 incurred by Special Counsel for the Matter, commencing on the date that Special  
16 Counsel receives the request. The budget and timeline shall include the specific tasks  
17 to be performed (including such things as discovery and motions for trial, preparation of  
18 documents for transactional services, and anticipated research and investigations).  
19 Special Counsel shall identify the projected total hours that will be billed and who will be  
20 performing those hours of service, plus fees and costs for each task. The budget and  
21 timeline shall be a good faith estimate and as complete as possible. Any deviation  
22 from the budget and any deviation over 10% on any task identified in the budget must  
23 be discussed in advance with the City Attorney, or designee, and the billing related to  
24 that task is subject to adjustment so as to conform to the budget.

25 In addition, the City Attorney or designee may request a written budget  
26 and timeline similar to the one described above, but relating specifically to one or more  
27 tasks necessary to the Matter.

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1                   If the billings of Special Counsel are approaching the "not to exceed"  
2 amount shown in Section 3 of the Agreement, then Special Counsel shall submit, in  
3 writing to the City Attorney or designee, the reasons why additional funds will be  
4 required to complete the Services. Special Counsel is cautioned that the City cannot  
5 pay invoices which reflect fees over the "not to exceed" amount in Section 3 of the  
6 Agreement.

7                   4. The City will not pay for unnecessary review of texts, codes, rules of  
8 court, or other fundamental references. The City will pay the hourly rate for specific  
9 legal research which is unique to the Matter, assuming that Special Counsel has used  
10 maximum efficiencies and that Special Counsel has not already performed research in  
11 the same or similar areas of law.

12                   5. The City acknowledges the benefit of communications between  
13 attorneys in the firm. The City does, however, expect that *intra-office conferences* will  
14 only be held as needed, and will be kept to a minimum. Intra-office conferences shall  
15 be for the purpose of discussing strategy and legal issues which directly further the  
16 Matter. The City will not pay for conferences which are supervisory or instructional  
17 (including conferences regarding case management). Any invoice which lists an intra-  
18 office conference that exceeds these guidelines must contain a full explanation and is  
19 subject to reduction by the City. The City will not pay for "team meetings" and the City  
20 will scrutinize all intra-office conferences for "value added" to the Matter by the intra-  
21 office conference, for the number of individuals attending the intra-office conference,  
22 the length of the conference, the subject(s) discussed at the conference and who  
23 participated in it and will, in the City's sole discretion, determine if such value was  
24 added.

25                   6. The City will not pay for local telephone calls; incoming facsimiles;  
26 postage; time spent on filing, calendaring, indexing pleadings, and photocopying;  
27 conferences with Clerks of Court or court reporters; proofreading; re-drafting due to  
28 substandard work; time billed by summer associates; time for more than one individual



1 at a trial, hearing, court appearance, arbitration, mediation, deposition, third party  
2 meeting, conference call or similar event (unless approved in advance by the City);  
3 opening, closing or organizing files; or other similar tasks.

4           7. Vague billing which does not contain sufficient information to allow the  
5 City's reviewer of the invoice to determine the nature of the task, the reason for the task  
6 and the individual performing the task is subject to reduction by the City. Examples of  
7 vague billing include but are not limited to the following: Attention to Matter, Review  
8 case and issues, Conference, Review correspondence, Arrangements, Telephone call,  
9 Discovery, Trial Preparation, Meeting, Update strategy, Motion work, Work on case or  
10 project, Pleadings, Work on file or discovery, Prepare for "xxx", Review documents,  
11 Legal Research or analysis.

12           8. All Services billed by attorneys and paralegals must be actual legal  
13 services requiring the expertise of a legal provider. The City will not pay for more than  
14 eight (8) hours of Services per day without a detailed explanation of the need for time  
15 over eight hours and may reduce the invoice if the explanation is unsatisfactory, in the  
16 City's sole discretion.

17           9. The City will reimburse for facsimiles sent by but not received by  
18 Special Counsel and photocopies made at a rate not to exceed \$.12 per page; the  
19 number of pages of facsimiles and to whom they were sent, and the number of pages  
20 of photocopies made must appear on the invoice. Special Counsel shall limit the  
21 making of photocopies and the sending of facsimiles. The City will reimburse actual  
22 costs for computerized legal research if it is reasonable and necessary; however, these  
23 charges are subject to review by the City.

24           10. The City will not reimburse for overtime, word processing (document  
25 production), supplies, anything identified on an invoice as "miscellaneous", or any other  
26 unidentified charges.

27           11. Special Counsel shall normally use the U.S. Mail and regular attorney  
28 services to send and to file papers and other materials. The City reserves the right to

1 reduce excessive charges for messengers and Federal Express or other similar  
2 services which are not fully explained or which are not necessary, in the City's  
3 determination.

4 12. A. The City will reimburse travel costs of Special Counsel only as  
5 described herein. Travel costs not addressed in these Guidelines are not reimbursable.  
6 Travel costs must be reasonable. The City will not reimburse for travel by more than  
7 one person of Special Counsel, unless approved in writing by the City Attorney or  
8 designee in advance of such travel. The City will not reimburse for excess costs  
9 caused by an indirect route chosen for Special Counsel's personal reasons

10 B. As used in these Guidelines, "local travel" means travel that is 100  
11 miles or less from the office of Special Counsel or from his/her home. "Extended travel"  
12 means travel that is more than 100 miles from the office of Special Counsel or from  
13 his/her home.

14 C. The City will not reimburse for local travel. However, the City will  
15 reimburse for the actual cost of parking that is necessitated by local travel. The City will  
16 not reimburse for meals in connection with local travel. While Special Counsel is on  
17 local travel, the City will pay fifty percent (50%) of the hourly rate of Special Counsel.

18 D. The City must approve all extended travel in advance. The City will  
19 reimburse fifty percent (50%) of the actual costs of extended travel, unless Special  
20 Counsel can substantiate the need for full reimbursement. Special Counsel shall use  
21 its best efforts to make airline reservations far enough in advance to take advantage of  
22 reduced air fares and shall take advantage of other promotional air fares that reduce  
23 costs. In any case, travel by air shall be at economy, coach, or other lower fare. The  
24 City will not reimburse for travel insurance.

25 Special Counsel should use a rental car while on extended travel only  
26 when necessary and when the cost of a rental car will be less than other forms of  
27 ground transportation. If the use of a rental car meets the preceding criteria, then the  
28 City will reimburse for a compact vehicle for one person, a mid-sized vehicle for two

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1 persons, and a standard size vehicle for three or more persons. The City will not  
2 reimburse for luxury vehicles, vans, or 4x4 vehicles.

3           The City will reimburse Special Counsel, while on extended travel, for the  
4 reasonable, actual costs for meals, excluding the cost of alcoholic beverages, and for  
5 lodging at hotels which are moderately priced for the locale, but will not reimburse for  
6 laundry or movies.

7           E. Special Counsel shall submit a travel expense report on the City's form  
8 after completing extended travel. Special Counsel shall submit receipts or other  
9 evidence of payment relating to each item for which Special Counsel seeks  
10 reimbursement.

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ADDENDUM

<u>NAME</u>	<u>POSITION/TITLE</u>	<u>HOURLY RATE</u>
Russell G. Petti	Attorney	\$250.00
Tony Kay	Paralegal	\$110.00