

FOURTH AMENDMENT TO AGREEMENT NO. 26174

**26174**

THIS FOURTH AMENDMENT TO AGREEMENT NO. 26174 is made and entered, in duplicate, as of September 15, 2006 for reference purposes only, pursuant to a minute order adopted by the City Council of the City of Long Beach at its meeting on September 12, 2006, by and between the LONG BEACH MUSEUM OF ART FOUNDATION ("Foundation") and the CITY OF LONG BEACH ("City").

WHEREAS, the parties entered Agreement No. 26174 whereby Foundation agreed to manage the City's art collection; and

WHEREAS, the parties desire to amend the Agreement to reflect the compensation paid to Foundation for fiscal year 2006-2007;

NOW, THEREFORE, in consideration of the mutual terms and conditions in Agreement No. 26174 and in this Amendment, the parties agree as follows:

1. Section 4(A) of Agreement No. 26174 is hereby amended in its entirety to read as follows:

"A. The City shall pay to the Foundation as compensation for Foundation's management services a fee of Five Hundred Seventy-One Thousand Dollars (\$571,000.00) for fiscal year 2003-2004, which has been appropriated by the City's City Council. Funding was reduced from the prior year and the parties negotiated regarding the level of services that the Foundation can provide for the actual amount of funding. The Foundation agrees to and shall perform its management services for the amount appropriated.

"The City shall pay to the Foundation as compensation for Foundation's management services a fee of Five Hundred Sixty-nine Thousand Dollars (\$569,000.00) for fiscal year 2004-2005, which has been appropriated by the City's City Council. Funding was reduced from the prior year and the parties negotiated regarding the level of services that the Foundation can provide for the actual amount of funding. The Foundation agrees to and shall perform its management services for the amount appropriated for fiscal year

1 2004-2005.

2 "The City shall pay to the Foundation as compensation for Foundation's  
3 management services a fee of Five Hundred Sixty-Nine Thousand Dollars (\$569,000.00)  
4 for fiscal year 2005-2006, which has been appropriated by the City's City Council. The  
5 Foundation agrees to and shall perform its management service for the amount  
6 appropriated for fiscal year 2005-2006.

7 "The City shall pay to the Foundation as compensation for Foundation's  
8 management services a fee of Five Hundred Sixty-Nine Thousand Dollars (\$569,000.00)  
9 for fiscal year 2006-2007, which has been appropriated by the City's City Council. The  
10 Foundation agrees to and shall perform its management service for the amount  
11 appropriated for fiscal year 2006-2007.

12 "If funding is reduced in future fiscal years, during the term of this Agreement,  
13 below the sum of \$645,585.00, then the parties agree to negotiate for a period of ninety  
14 (90) days regarding the level of services that the Foundation can provide for the actual  
15 amount of funding. If the parties have not reached agreement at the end of the ninety-day  
16 period, then Foundation shall have the right to terminate this Agreement and the Lease by  
17 giving thirty (30) days notice of termination to the City.

18 "The parties further agree to negotiate for any increase in the fee in any  
19 future year provided, however, that the fee shall be no greater than \$669,000 plus  
20 cumulative increases in the Consumer Price Index (All Consumers) for Los Angeles-  
21 Riverside-Orange County with a base index year of 2003. If the parties reach agreement  
22 on an increase in the fee, then this Agreement shall be amended with authorization of the  
23 City Council to reflect such increase."

24 2. Except as expressly amended herein, all terms and conditions in  
25 Agreement No. 26174 as previously amended, except to the extent inconsistent with this  
26 Amendment, are ratified and confirmed and shall remain in full force and effect.

27 IN WITNESS WHEREOF, the parties have caused this document to be duly

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

executed with all formalities required by law as of the date first stated above.

LONG BEACH MUSEUM OF ART FOUNDATION

By Pamela M. Munzer  
President  
PAMELA M. MUNZER  
(Type or Print Name)

By Mia Sullivan  
Secretary  
MIA SULLIVAN  
(Type or Print Name)

"Foundation"

CITY OF LONG BEACH

By Robert E. Shannon  
City Manager  
"City"

This Fourth Amendment to Agreement No. 26174 is approved as to form on

9/19, 2006.

ROBERT E. SHANNON, City Attorney

By D. J. Quinn  
Senior Deputy