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FIRST AMENDMENT TO AGREEMENT NO. 28828

**28828**

THIS FIRST AMENDMENT TO AGREEMENT NO. 28828 is made and entered, in duplicate, as of January 6, 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 December 20, 2005, by and between CONNOLLY-PACIFIC CO. ("Design-Builder"), and the CITY OF LONG BEACH, a municipal corporation ("City").

WHEREAS, the City and Design-Builder entered Agreement No. 28828 whereby Design-Builder agreed to provide services in connection with the design and refurbishment of the Long Beach Shoreline and Rainbow Harbor Marinas ("Project"); and

WHEREAS, the City Council of the City of Long Beach on March 23, 2004 authorized a total amount not to exceed Thirty Million One Hundred Thirteen Thousand Five Hundred Eighty-Two Dollars (\$30,113,582) for the design and refurbishment costs of the Project; and

WHEREAS, the City Council of the City of Long Beach on December 20, 2005 approved an expansion of the Project beyond the original scope; and

WHEREAS, the cost for materials has exceeded the original projections; and

WHEREAS, the City Council of the City of Long Beach on December 20, 2005 approved an increase of Two Million Four Hundred Eighty-Five Thousand One Hundred Ninety-Eight Dollars (\$2,485,198) for a total amount not to exceed Thirty-Two Million Five Hundred Ninety-Eight Thousand Seven Hundred Eighty Dollars (\$32,598,780) for the Project.

NOW, THEREFORE, in consideration of the mutual terms and conditions in Agreement No. 28828 and herein, the parties agree as follows:

1. Section 6.1 of Agreement No. 28828 is hereby amended in its entirety to read as follows:

"6.1 Contract Price. Owner shall pay to Designer-Builder in accordance with Article 7 below the sum of Thirty Million Four Hundred Forty-Six Thousand Eight Hundred

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

1 Fifty Dollars (\$30,446,850) ("Contract Price"), subject to adjustments made in accordance  
2 with the General Condition of Contract. Unless otherwise provided in the Contract  
3 Documents, the  
4 Contract Price is deemed to include all sales, use consumers and other taxes mandated  
5 by applicable Legal Requirements. Any adjustments to the Contract Price made in  
6 accordance with the General Condition of Contract shall not exceed Thirty-Two Million Five  
7 Hundred Ninety-Eight Thousand Seven Hundred Eighty Dollars (\$32,598,780) as  
8 authorized by the City Council of the City of Long Beach on December 20, 2005."

9 2. Except as expressly amended herein, all of the terms and conditions  
10 contained in Agreement No. 28828 are ratified and confirmed and shall remain in full force  
11 and effect.

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

14 CONNOLLY-PACIFIC CO.  
15 Oct. 13, 2006 By [Signature]  
16 President

17 Oct 13, 2006 By [Signature]  
18 Secretary

19 "Consultant"  
20 CITY OF LONG BEACH, a municipal corporation  
Oct 24, 2006 By [Signature]  
21 City Manager

22 "City"

23 This First Amendment to Agreement No. 28828 is approved as to form on  
Oct 17, 2006.

24 ROBERT E. SHANNON, City Attorney  
25 By [Signature]  
26 Principal Deputy