

FIFTH AMENDMENT TO AGREEMENT NO. 26174

26174

THIS FIFTH AMENDMENT TO AGREEMENT NO. 26174 is made and entered, in duplicate, as of September 12, 2007 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 11, 2007, by and between the LONG BEACH MUSEUM OF ART FOUNDATION ("Foundation") and the CITY OF LONG BEACH ("City").

WHEREAS, the parties entered into 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 2007-2008;

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) 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) 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 2004-2005.

1 “The City shall pay to the Foundation as compensation for Foundation’s
2 management services a fee of Five Hundred Sixty-Nine Thousand Dollars (\$569,000) for
3 fiscal year 2005-2006, which has been appropriated by the City’s City Council. The
4 Foundation agrees to and shall perform its management service for the amount
5 appropriated for fiscal year 2005-2006.

6 “The City shall pay to the Foundation as compensation for Foundation’s
7 management services a fee of Five Hundred Sixty-Nine Thousand Dollars (\$569,000) for
8 fiscal year 2006-2007, which has been appropriated by the City’s City Council. The
9 Foundation agrees to and shall perform its management service for the amount
10 appropriated for fiscal year 2006-2007.

11 “The City shall pay to the Foundation as compensation for Foundation’s
12 management services a fee of Five Hundred Sixty-Nine Thousand Dollars (\$569,000) for
13 fiscal year 2007-2008, which has been appropriated by the City’s City Council. The
14 Foundation agrees to and shall perform its management service for the amount
15 appropriated for fiscal year 2007-2008.

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

22 “The parties further agree to negotiate for any increase in the fee in any
23 future year provided, however, that the fee shall be no greater than \$669,000 plus
24 cumulative increases in the Consumer Price Index (All Consumers) for Los Angeles-
25 Riverside-Orange County with a base index year of 2003. If the parties reach agreement
26 on an increase in the fee, then this Agreement shall be amended with authorization of the
27 City Council to reflect such increase.”
28

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

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

LONG BEACH MUSEUM OF ART FOUNDATION

October 28, 2007

By Roberta Jenkins
President
ROBERTA JENKINS
(Type or Print Name)

October 28, 2007

By [Signature]
Secretary
TINA SULLIVAN
(Type or Print Name)

"Foundation"

CITY OF LONG BEACH

October 31, 2007

By Christine J. Slippy ASSISTANT
City Manager
"City"

This Fifth Amendment to Agreement No. 26174 is approved as to form on October 30, 2007.

**EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.**

ROBERT E. SHANNON, City Attorney
By [Signature]
Deputy