

FIFTH AMENDMENT TO AGREEMENT FOR LEGAL SERVICES

31680

THIS FIFTH AMENDMENT TO AGREEMENT FOR LEGAL SERVICES is made and entered, in duplicate, as of March 14, 2018, pursuant to a minute order adopted by the City Council of the City of Long Beach on March 13, 2018, by and between DAVIS WRIGHT TREMAINE LLP ("Special Counsel"), and the CITY OF LONG BEACH, a municipal corporation ("City"), amending that certain agreement ("Agreement") between Special Counsel and City and identified by the City as Agreement No. 31680.

WHEREAS, an Agreement for Legal Services with Special Counsel was entered into, dated as of March 8, 2010, and such Agreement was amended by a First Amendment to Agreement for Legal Services dated as of January 11, 2012, a Second Amendment to Agreement for Legal Services dated as of January 31, 2014, a Third Amendment to Agreement for Legal Services dated as of January 31, 2015, and a Fourth Amendment to Agreement for Legal Services dated as of March 10, 2016; and

WHEREAS, a Fifth Amendment to Agreement No. 31680 for Legal Services is required to extend the term and increase the authorized amount thereunder;

NOW, THEREFORE, IT IS MUTUALLY AGREED by and between the parties hereto as follows:

1. Section 3 of Contract No. 31680 is hereby amended in its entirety to read:

"3. FEE. City shall pay to Special Counsel in due course of payments compensation at the hourly rates identified in the staffing profile and reimbursement of costs as further described herein the "Guidelines" also attached hereto, not to exceed Two Hundred Twenty-Five Thousand Dollars (\$225,000) per year."

2. Section 6 of Contract No. 31680 is hereby amended in its entirety to read:

"6. TERM. The term of this Agreement shall begin at 12:01 a.m. on

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February 1, 2010, and shall end at midnight on January 31, 2020 or when the Matter is concluded or on fifteen (15) days' prior notice from the City to Special Counsel."

3. The Addendum to Agreement No. 31680 is replaced by the Revised Addendum attached hereto and incorporated by this reference.

4. Except as expressly modified herein, all of the terms and conditions contained in Legal Services Agreement No. 31680 are ratified and confirmed and shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed with all the formalities required by law on the respective dates set forth opposite their signatures.

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

DAVIS WRIGHT TREMAINE LLP

DATED: 4/24/18

By: [Signature]

Title Partner

"Special Counsel"

Tom Modica
Assistant City Manager CITY OF LONG BEACH, a municipal corporation

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER

DATED: 6/1/18

By: [Signature]
City Manager

"City"

The foregoing Fifth Amendment to Agreement No. 31680 for Legal Services is approved as to form this 2 day of May, 2018.

CHARLES PARKIN, City Attorney

By: [Signature]
Deputy

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2 **GUIDELINES FOR BILLING**
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4 In addition to the provisions stated in the Terms and Conditions, the following
5 guidelines for billing apply:

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

9 2. The City expects Special Counsel to select the individual most suitable
10 for the task required and the specific needs of the Matter, and to use the maximum
11 efficiencies available. Billings for services performed by the inappropriate level of personnel
12 will be reduced by the City based on rate adjustments for the appropriate 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 incurred
15 by Special Counsel for the Matter, commencing on the date that Special Counsel receives
16 the request. The budget and timeline shall include the specific tasks to be performed
17 (including such things as discovery and motions for trial, preparation of documents for
18 transactional services, and anticipated research and investigations). Special Counsel shall
19 identify the projected total hours that will be billed and who will be performing those hours of
20 service, plus fees and costs for each task. The budget and timeline shall be a good faith
21 estimate and as complete as possible. Any deviation from the budget and any deviation
22 over 10% on any task identified in the budget must be discussed in advance with the City
23 Attorney, or designee, and the billing related to that task is subject to adjustment so as to
24 conform to the budget.

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

28 If the billings of Special Counsel are approaching the "not to exceed" amount

1 shown in the Purchase Order, then Special Counsel shall submit, in writing to the City
2 Attorney or designee, the reasons why additional funds will be required to complete the
3 Services. Special Counsel is cautioned that the City cannot pay invoices which reflect fees
4 over the "not to exceed" amount in the Purchase Order.

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

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

22 6. The City will not pay for local telephone calls; incoming facsimiles;
23 postage; time spent on filing, calendaring, indexing pleadings, and photocopying;
24 conferences with Clerks of Court or court reporters; proofreading; re-drafting due to
25 substandard work; time billed by summer associates; time for more than one individual at a
26 trial, hearing, court appearance, arbitration, mediation, deposition, third party meeting,
27 conference call or similar event (unless approved in advance by the City); opening, closing
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1 or organizing files; or other similar tasks.

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

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

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

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

24 11. Special Counsel shall normally use the U.S. Mail and regular attorney
25 services to send and to file papers and other materials. The City reserves the right to reduce
26 excessive charges for messengers and Federal Express or other similar services which are
27 not fully explained or which are not necessary, in the City's determination.

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

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

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

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

21 Special Counsel should use a rental car while on extended travel only when
22 necessary and when the cost of a rental car will be less than other forms of ground
23 transportation. If the use of a rental car meets the preceding criteria, then the City will
24 reimburse for a compact vehicle for one person, a mid-sized vehicle for two persons, and a
25 standard size vehicle for three or more persons. The City will not reimburse for luxury
26 vehicles, vans, or 4x4 vehicles.

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

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

Revised Addendum to Agreement No. 31680

The following is a list of the partners, associates, and paralegals who are authorized to work as Special Counsel under Agreement No. 31680, including their billing rates.

Name	Title	Rate
Vidhya Prabhakaran	Partner	\$ 650.00
Steve Greenwald	Partner	\$ 880.00
Katie Jorrie	Associate	\$ 445.00
Emily Sangi	Associate	\$ 445.00
Tahiya Sultan	Associate	\$ 425.00
Judy Pau	Paralegal	\$ 325.00

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