

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

CONTRACT

29372

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3 THIS CONTRACT is made and entered, in duplicate, as of October 20, 2005
4 for reference purposes only, pursuant to a minute order adopted by the City Council of the
5 City of Long Beach at its meeting held on October 18, 2005, by and between E. DEL
6 SMITH & CO., INC., a Washington, D.C. corporation, with its principal place of business
7 at 1130 Connecticut Avenue, Suite 710, Washington, D.C. 20036, ("Consultant"), and the
8 CITY OF LONG BEACH, a municipal corporation, ("City").

9 WHEREAS, it is essential that City establish and maintain effective liaison
10 with agencies and officials of federal, state and local governments and other bodies,
11 commissions, committees and organizations; and

12 WHEREAS, City desires to present pertinent information, facts and data to
13 said agencies and officials relating to matters involving and affecting City and its interests;
14 and

15 WHEREAS, City requires information and data from agencies and officials
16 of the federal and state governments and other entities in order to facilitate the operation
17 of the government of City; and

18 WHEREAS, representation of City's interests and liaison between City and
19 other officials, agencies, bodies, commissions, committees and organizations require the
20 assistance of personnel experienced in such matters; and

21 WHEREAS, Consultant has previously performed such services for City in
22 an effective, efficient and satisfactory manner; and

23 WHEREAS, by reason of extensive experience in dealing with governmental
24 agencies and officials, Consultant is particularly and peculiarly qualified to serve City in
25 establishing and maintaining liaison for City and representing City with other governmental
26 entities and officials; and

27 WHEREAS, City desires to contract with Consultant so that Consultant's
28 services will be available to the appropriate City officers when said services are required;

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

3 1. Consultant, at its cost, shall (i) contact and communicate with agencies
4 and officers of federal governmental entities as requested and directed by the City
5 Manager of City or his designee; (ii) establish and maintain liaison with said agencies and
6 officers; (iii) present and disseminate pertinent information and data relating to matters
7 concerning the interests of the City; (iv) obtain information and data from said agencies
8 and officers pertaining to matters of interest or concern to the City and transmit same to
9 the appropriate officers and employees of the City; (v) monitor federal legislation and rule-
10 making processes by federal agencies (whether pending or introduced or initiated during
11 the term of this Contract) which impact the operations of the City either as determined by
12 Consultant or as directed by the City Manager; (vi) provide the City's officials and
13 employees in a timely manner but not less frequently than once each month with status
14 reports of legislation and rule-making processes being monitored, including without
15 limitation legislative histories, schedules of hearings on proposed legislation and rules, and
16 copies of proposed legislation and rules and all amendments or proposed amendments
17 thereto; (vii) identify funding that will assist in the creation of new City programs, projects
18 or services or the augmentation of existing City programs, projects or services; (viii)
19 arrange meetings with legislative representatives for City staff and elected officials, when
20 necessary, and be prepared to participate as requested; and (ix) conduct monthly
21 conference calls with City Manager, Assistant City Manager, Manager of Government
22 Affairs to discuss progress of federal advocacy efforts.

23 2. The term of this Contract shall commence at midnight on October 1, 2005,
24 and shall terminate at 11:59 p.m. on September 30, 2006, unless sooner terminated as
25 provided in this Contract.

26 3. City shall pay to Consultant the sum of Nine Thousand Eight Hundred
27 Sixty Dollars (\$9,860.00) per month, payable in arrears, commencing with the first payment
28 on November 1, 2005. Total compensation shall not exceed One Hundred Eighteen,

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1 Three Hundred Ten Dollars (\$118,310.00). The parties agree that said sum represents the
2 *reasonable value of services to be rendered by Consultant and reasonable costs to be*
3 *incurred in rendering such services. In the event a court of competent jurisdiction or any*
4 *administrative agency shall determine that payment of such compensation was otherwise*
5 *contingent, then this Contract shall be deemed rescinded ab initio.*

6 4. Consultant shall not be entitled to reimbursement and City shall not
7 reimburse Consultant for any costs or expenses incurred in performance of this Contract.

8 5. Not later than the tenth (10th) day of each month during the term of this
9 Contract commencing October 1, 2005, Consultant shall submit to the City Manager, in a
10 form acceptable to him, a reasonably detailed and itemized statement of Consultant's
11 *activities on behalf of the City during the preceding month. Upon receipt of said statement,*
12 *City will pay Consultant in due course of payments.*

13 6. Either party hereto may terminate this Contract for any reason at any time
14 by giving to the other party ten (10) days prior notice of termination. In the event of
15 termination pursuant to this Section 6, City shall pay Consultant for services performed up
16 to the effective date of termination for which Consultant has not previously been paid and
17 for which Consultant submits the statement required in Section 5.

18 7. Any notices shall be in writing and personally delivered or deposited in the
19 U.S. Postal Service, first class, postage prepaid to Consultant at the address above, and
20 to the City at 333 West Ocean Boulevard, Long Beach, California 90802 Attn: City
21 Manager. Notice of change of address shall be given in the same manner as stated for
22 other notices. Notice shall be deemed given on the date deposited in the mail or on the
23 date personal delivery is made, whichever occurs first.

24 8. Consultant certifies, and shall obtain similar certifications from its officers,
25 employees and associates that, at the time this Contract is executed and while it is in
26 effect, Consultant does not and will not represent or perform any services for any other
27 client which would create a conflict, whether monetary or otherwise, as between the
28 interests of the City and the interests of any other such client.

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1 9. This Contract contemplates the personal services of Consultant and
2 Consultant's employees and associates, and the parties acknowledge that a substantial
3 inducement to City for entering this Contract was and is the professional reputation and
4 competence of Consultant and Consultant's employees and associates. Consultant shall
5 not assign its rights or delegate its duties hereunder, or any interest herein, or any portion
6 hereof. Any attempted assignment or delegation shall be void, and any assignee or
7 delegate shall acquire no right or interest by reason of such attempted assignment or
8 delegation.

9 10. In rendering services hereunder, Consultant is an independent contractor
10 and not an employee of City. Consultant acknowledges and agrees that a) City will not
11 withhold taxes of any kind from Consultant's compensation; b) City will not secure workers'
12 compensation or pay unemployment insurance to, for or on Consultant's behalf; and c) City
13 will not provide and Consultant is not entitled to any of the usual and customary rights,
14 benefits or privileges of City employees.

15 11. This Contract shall not be amended, nor any provision or breach of it
16 waived, except in writing signed by the parties which expressly refers to this Contract.

17 12. This Contract shall be governed by and construed pursuant to the laws
18 of the State of California (except those provisions of California law pertaining to conflicts
19 of laws).

20 13. This Contract constitutes the entire understanding between the parties
21 and supersedes all other agreements, whether oral or written, with respect to the subject
22 matter in it.

23 14. In the event that there is any legal proceeding between the parties to
24 enforce or interpret this Contract or to protect or establish any rights or remedies
25 hereunder, the prevailing party shall be entitled to its costs and expenses, including
26 reasonable attorney's fees.

27 15. Consultant shall not, subject to applicable laws, rules, and regulations,
28 discriminate in rendering services hereunder on the basis of race, color, religion, national

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1 origin, sex, sexual orientation, AIDS, HIV status, age, disability, or handicap.

2 16. The acceptance of any services or the payment of any money by City
3 shall not operate as a waiver of any provision of this Contract. The waiver of any breach
4 of this Contract shall not constitute a waiver of any other or subsequent breach of this
5 Contract.

6 17. Termination or expiration of this Agreement shall not affect rights or
7 liabilities of the parties which accrued prior to termination or expiration of this Contract.

8 18. As required by federal and state law, City is obligated to and will report
9 the payment of compensation to Consultant on Form 1099-Misc. Consultant shall be
10 solely responsible for payment of all federal and state taxes resulting from payments under
11 this Agreement. Consultant's Social Security Number or Employer Identification Number
12 is [REDACTED]. Consultant acknowledges and agrees that City has no obligation to pay
13 Consultant until Consultant provides one of these Numbers.

14 19. This Contract is intended by the parties to benefit themselves only and
15 is not in any way intended or designed to or entered for the purpose of creating any benefit
16 or right for any person or entity of any kind that is not a party to this Contract.

17 20. In order to facilitate and expedite Consultant's services on behalf of the
18 City, City shall cooperate in a timely manner with Consultant to inform Consultant as to
19 City's needs relating to legislative advocacy. Specifically, City shall review and analyze all
20 bills transmitted by Consultant and inform Consultant of City's positions, if any, in a timely
21 manner, and provide timely briefings and information to Consultant on all issues of interest
22 to City that require Consultant's services.

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

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

2
3 10/31, 2005

E. DEL SMITH & CO. INC., a Washington, D.C.
corporation

4 By E. Del Smith
President
5 E. DEL SMITH
(Type or Print Name)

6 _____, 2005

7 By _____
Secretary
8 _____
(Type or Print Name)

"Consultant"

9
10 11/4/2005

CITY OF LONG BEACH, a municipal corporation

11 By M. MacArthur
City Manager

"City"

12 This Agreement is approved as to form on 11/2, 2005.

13 ROBERT E. SHANNON, City Attorney

14 By D. Quinn
15 Senior Deputy

16 DFG:dfe 10/10/05(AGR-EDelSmith) #00-01858
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