

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

AGREEMENT

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THIS AGREEMENT is made and entered, in duplicate, as of June 1, 2015 for reference purposes only, pursuant to a minute order adopted by the City Council of the City of Long Beach at its meeting on March 24, 2015, by and between PUBLIC FINANCIAL MANAGEMENT, INC., a Pennsylvania corporation ("Consultant"), with a place of business at 601 S. Figueroa Street, Suite 4500, Los Angeles, California 90017, and the CITY OF LONG BEACH, a municipal corporation ("City").

WHEREAS, City requires specialized services requiring unique skills to be performed in connection with financial advisory services; and

WHEREAS, City conducted RFP No. FM15-019 seeking qualifications of professional consultants for specialized financial advisory services on an as-needed basis; and

WHEREAS, the City has selected Consultant in accordance with City's administrative procedures and City has determined that Consultant and its employees are qualified, licensed, if so required, and experienced in performing these specialized services; and

WHEREAS, City desires to have Consultant perform these specialized services, and Consultant is willing and able to do so on the terms and conditions in this Agreement;

NOW, THEREFORE, in consideration of the mutual terms, covenants, and conditions in this Agreement, the parties agree as follows:

1. SCOPE OF WORK OR SERVICES.

A. Consultant shall furnish specialized services in accordance with the professional, regulatory and technical standards of the profession within the scope of work as shall be requested from time to time during the term of this Agreement by City Manager or designee. Services requested may include the following:

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- i. Conduct capital planning, budget and debt management reviews including an ongoing analysis of all of the City's debt obligations, with recommendations for restructuring and refinancing alternatives;
- ii. Attend or participate in all meetings required by the City to include City Council, Commission and JPA meetings;
- iii. Provide an analysis of various alternatives for the City to structure the efficient capitalization of its capital improvement program;
- iv. Review all finance proposals submitted to the City which are submitted to Consultant;
- v. Provide review and analysis of remarketing consideration while any variable rate debt is outstanding or contemplated;
- vi. Monitor and evaluate the financial condition of liquidity providers and bond insurers;
- vii. Provide information, judgments and forecasts regarding economic, capital market and money market conditions;
- viii. Assist in drafting and commenting on reports prepared by the City;
- ix. Assist in reviewing and analyzing legislation;
- x. Evaluate and advise on the use of new and complex debt structures, including various derivative and hedging products;
- xi. Assist in negotiating contracts, such as swaps, investment agreements, purchases and sales of assets;
- xii. Assist in developing and updating strategies, plans, and policies, including debt and swap policies;
- xiii. Develop and implement on-going rating agency and investor relationship strategies, including the preparation of presentation materials;
- xiv. Assist in the review and development of investment

1 banking Requests for Proposals and the selection of underwriting teams;

2 xv. Advise on the timing, method and structure of
3 financings;

4 xvi. Assist and advise in negotiating the amount and
5 components of the underwriters' spread, pricing and other terms of bond
6 sales, including the verification of the true interest cost of winning bids for
7 competitive bond sales;

8 xvii. Prepare and review documents associated with
9 soliciting bids related to investments, hedging products bond insurance, lines
10 of credit, trustee services, verification services, and similar types of products
11 and services; and

12 xviii. Perform other financial advisory services as may be
13 required from time to time.

14 B. In requesting the services of Consultant, City Manager or
15 designee shall identify the project for which such services are requested and shall
16 establish the maximum amount to be charged by Consultant on such project, the
17 time limit within which the work is to be completed and the charge point(s) to be
18 used in submitting invoices to the City. Consultant's charges shall not exceed the
19 maximum amount so established without the express written approval of the City
20 Manager or designee.

21 C. Charges made by the Consultant for such services shall be
22 negotiated to be paid on a contingency or fixed basis as follows:

23 i. City shall pay Consultant for services rendered at the
24 hourly rates set forth in Exhibit "A," "Hourly Rates." Payments will be made
25 monthly in arrears upon receipt of an itemized invoice showing the number
26 of hours charged by each individual assigned, along with their respective
27 hourly rates and a brief description of services provided, along with an
28 itemization of any reasonable and necessary out-of-pocket expenses.

1 ii. In lieu of paying Consultant as set forth in paragraph C(i)
2 above, the City in its discretion and by and through its City Manager or
3 designee, may negotiate prior to commencement of such services a fixed or
4 contingent fee with Consultant (inclusive of Consultant's out-of-pocket
5 expenses) in connection with a specific financial transaction or project. For
6 each such transaction or project, Consultant shall communicate in writing to
7 the City of its acceptance of such fixed or contingent fee arrangement, and
8 include the names and titles of the personnel to be assigned by Consultant,
9 the fixed or contingent fee to be charged, and a description of Consultant's
10 approach to accomplish the specific financial transaction or project. If a
11 specific financial transaction or project does not close or a project is not
12 completed or if this Agreement is terminated pursuant to paragraph 10 below
13 prior to the close of a specific financial transaction or completion of a project,
14 City shall pay Consultant in accordance with paragraph C(i) above; however,
15 such payment shall not exceed the fixed fee negotiated for that specific
16 financial transaction.

17 iii. The combined fees in paragraphs C(i) and (ii) above
18 shall not exceed Two Hundred Thousand Dollars (\$200,000) annually during
19 the initial term hereof nor shall such combined fees exceed Two Hundred
20 Thousand Dollars (\$200,000) annually during any of the optional extension
21 periods, if the City exercises one or both of the options described in
22 paragraph 2.

23 iv. The fees described in paragraphs C(i) and (ii) above
24 shall include all reasonable and necessary out-of-pocket expenses incurred
25 in connection with City's engagement including those set forth in Exhibit "A."
26 Out-of-pocket expenses may include, but are not limited to transportation,
27 lodging, meals, documents services, data base services, courier charges and
28 fees and expenses of outside professionals.

1 D. The City's obligation to pay the sum stated above for any one
2 fiscal year shall be contingent upon the City Council of the City appropriating the
3 necessary funds for such payment by the City in each fiscal year during the term of
4 this Agreement. For the purposes of this Section, a fiscal year commences on
5 October 1 of the year and continues through September 30 of the following year. In
6 the event that the City Council of the City fails to appropriate the necessary funds
7 for any fiscal year, then, and in that event, the Agreement will terminate at no
8 additional cost or obligation to the City.

9 E. Consultant may select the time and place of performance for
10 these services; provided, however, that access to City documents, records and the
11 like, if needed by Consultant, shall be available only during City's normal business
12 hours and provided that milestones for performance, if any, are met.

13 F. Consultant shall certify on the invoices that Consultant has
14 performed the services in full conformance with this Agreement and is entitled to
15 receive payment. Where billing is done and payment is made on an hourly basis,
16 the parties acknowledge that this arrangement is either customary practice for
17 Consultant's profession, industry or business, or is necessary to satisfy audit and
18 legal requirements which may arise due to the fact that City is a municipality.

19 G. Consultant represents that Consultant has obtained all
20 necessary information on conditions and circumstances that may affect its
21 performance and has conducted site visits, if necessary.

22 H. CAUTION: Consultant shall not begin work until this
23 Agreement has been signed by both parties and until Consultant's evidence of
24 insurance has been delivered to and approved by City.

25 2. TERM. The initial term of this Agreement shall commence at midnight
26 on June 1, 2015, and shall terminate at 11:59 p.m. on May 31, 2017, unless sooner
27 terminated or extended as provided in this Agreement, or unless the services are
28 completed sooner. The term of this Agreement may be extended for three (3) additional

1 one-year periods at the option of the City upon written notice to Consultant.

2 3. COORDINATION AND ORGANIZATION.

3 A. Consultant shall coordinate its performance with City's
4 representative, the City Treasurer. Consultant shall advise and inform City's
5 representative of the work in progress on the Project in sufficient detail so as to
6 assist City's representative in making presentations and in holding meetings on the
7 Project. City shall furnish to Consultant information or materials, if any, described
8 in Exhibit "B", attached to this Agreement and incorporated by this reference.

9 B. The parties acknowledge that a substantial inducement to City
10 for entering this Agreement was and is the reputation and skill of Consultant's key
11 employee, Michael Berwanger. City shall have the right to approve any person
12 proposed by Consultant to replace that key employee.

13 4. INDEPENDENT CONTRACTOR. In performing its services,
14 Consultant is and shall act as an independent contractor and not an employee,
15 representative or agent of City. Consultant shall have control of Consultant's work and the
16 manner in which it is performed. Consultant shall be free to contract for similar services to
17 be performed for others during this Agreement; provided, however, that Consultant acts in
18 accordance with Section 9 and Section 11 of this Agreement. Consultant acknowledges
19 and agrees that (a) City will not withhold taxes of any kind from Consultant's compensation;
20 (b) City will not secure workers' compensation or pay unemployment insurance to, for or
21 on Consultant's behalf; and (c) City will not provide and Consultant is not entitled to any of
22 the usual and customary rights, benefits or privileges of City employees. Consultant
23 expressly warrants that neither Consultant nor any of Consultant's employees or agents
24 shall represent themselves to be employees or agents of City.

25 5. INSURANCE.

26 A. As a condition precedent to the effectiveness of this
27 Agreement, Consultant shall procure and maintain, at Consultant's expense for the
28 duration of this Agreement, from insurance companies that are admitted to write

1 insurance in California and have ratings of or equivalent to A:V by A.M. Best
2 Company or from authorized non-admitted insurance companies subject to Section
3 1763 of the California Insurance Code and that have ratings of or equivalent to A:VIII
4 by A.M. Best Company, the following insurance:

5 (a) Commercial general liability insurance (equivalent in scope to
6 ISO form CG 00 01 11 85 or CG 00 01 10 93) in an amount not less than
7 \$1,000,000 per each occurrence and \$2,000,000 general aggregate. This
8 coverage shall include but not be limited to broad form contractual liability,
9 cross liability, independent contractors liability, and products and completed
10 operations liability. City, its boards and commissions, and their officials,
11 employees and agents shall be named as additional insureds by
12 endorsement (on City's endorsement form or on an endorsement equivalent
13 in scope to ISO form CG 20 10 11 85 or CG 20 26 11 85 or both CG 20 10
14 07 04 and CG 20 37 07 04 or both CG 20 33 07 04 and CG 20 37 07 04),
15 and this insurance shall contain no special limitations on the scope of
16 protection given to City, its boards and commissions, and their officials,
17 employees and agents. This policy shall be endorsed to state that the
18 insurer waives its right of subrogation against City, its boards and
19 commissions, and their officials, employees and agents.

20 (b) Workers' Compensation insurance as required by the California
21 Labor Code and employer's liability insurance in an amount not less than
22 \$1,000,000. This policy shall be endorsed to state that the insurer waives
23 its right of subrogation against City, its boards and commissions, and their
24 officials, employees and agents.

25 (c) Professional liability or errors and omissions insurance in an
26 amount not less than \$1,000,000 per claim.

27 (d) Commercial automobile liability insurance (equivalent in scope
28 to ISO form CA 00 01 06 92), covering Auto Symbol 1 (Any Auto) in an

1 amount not less than \$500,000 combined single limit per accident.

2 B. Any self-insurance program, self-insured retention, or
3 deductible must be separately approved in writing by City's Risk Manager or
4 designee and shall protect City, its officials, employees and agents in the same
5 manner and to the same extent as they would have been protected had the policy
6 or policies not contained retention or deductible provisions.

7 C. Each insurance policy shall be endorsed to state that coverage
8 shall not be reduced, non-renewed or canceled except after thirty (30) days prior
9 written notice to City, shall be primary and not contributing to any other insurance
10 or self-insurance maintained by City, and shall be endorsed to state that coverage
11 maintained by City shall be excess to and shall not contribute to insurance or self-
12 insurance maintained by Consultant. Consultant shall notify City in writing within
13 five (5) days after any insurance has been voided by the insurer or cancelled by the
14 insured.

15 D. If this coverage is written on a "claims made" basis, it must
16 provide for an extended reporting period of not less than one hundred eighty (180)
17 days, commencing on the date this Agreement expires or is terminated, unless
18 Consultant guarantees that Consultant will provide to City evidence of uninterrupted,
19 continuing coverage for a period of not less than three (3) years, commencing on
20 the date this Agreement expires or is terminated.

21 E. Consultant shall require that all subconsultants or contractors
22 that Consultant uses in the performance of these services maintain insurance in
23 compliance with this Section unless otherwise agreed in writing by City's Risk
24 Manager or designee.

25 F. Prior to the start of performance, Consultant shall deliver to City
26 certificates of insurance and the endorsements for approval as to sufficiency and
27 form. In addition, Consultant shall, within thirty (30) days prior to expiration of the
28 insurance, furnish to City certificates of insurance and endorsements evidencing

1 renewal of the insurance. City reserves the right to require complete certified copies
2 of all policies of Consultant and Consultant's subconsultants and contractors, at any
3 time. Consultant shall make available to City's Risk Manager or designee all books,
4 records and other information relating to this insurance, during normal business
5 hours.

6 G. Any modification or waiver of these insurance requirements
7 shall only be made with the approval of City's Risk Manager or designee. Not more
8 frequently than once a year, City's Risk Manager or designee may require that
9 Consultant, Consultant's subconsultants and contractors change the amount, scope
10 or types of coverages required in this Section if, in his or her sole opinion, the
11 amount, scope or types of coverages are not adequate.

12 H. The procuring or existence of insurance shall not be construed
13 or deemed as a limitation on liability relating to Consultant's performance or as full
14 performance of or compliance with the indemnification provisions of this Agreement.

15 6. ASSIGNMENT AND SUBCONTRACTING. This Agreement
16 contemplates the personal services of Consultant and Consultant's employees, and the
17 parties acknowledge that a substantial inducement to City for entering this Agreement was
18 and is the professional reputation and competence of Consultant and Consultant's
19 employees. Consultant shall not assign its rights or delegate its duties under this
20 Agreement, or any interest in this Agreement, or any portion of it, without the prior approval
21 of City, except that Consultant may with the prior approval of the City Manager of City,
22 assign any moneys due or to become due Consultant under this Agreement. Any
23 attempted assignment or delegation shall be void, and any assignee or delegate shall
24 acquire no right or interest by reason of an attempted assignment or delegation.
25 Furthermore, Consultant shall not subcontract any portion of its performance without the
26 prior approval of the City Manager or designee, or substitute an approved subconsultant
27 or contractor without approval prior to the substitution. Nothing stated in this Section shall
28 prevent Consultant from employing as many employees as Consultant deems necessary

1 for performance of this Agreement.

2 7. CONFLICT OF INTEREST. Consultant, by executing this Agreement,
3 certifies that, at the time Consultant executes this Agreement and for its duration,
4 Consultant does not and will not perform services for any other client which would create
5 a conflict, whether monetary or otherwise, as between the interests of City and the interests
6 of that other client. And, Consultant shall obtain similar certifications from Consultant's
7 employees, subconsultants and contractors.

8 8. MATERIALS. Consultant shall furnish all labor and supervision,
9 supplies, materials, tools, machinery, equipment, appliances, transportation and services
10 necessary to or used in the performance of Consultant's obligations under this Agreement,
11 except as stated in Exhibit "B".

12 9. OWNERSHIP OF DATA. All materials, information and data
13 prepared, developed or assembled by Consultant or furnished to Consultant in connection
14 with this Agreement, including but not limited to documents, estimates, calculations,
15 studies, maps, graphs, charts, computer disks, computer source documentation, samples,
16 models, reports, summaries, drawings, designs, notes, plans, information, material and
17 memorandum ("Data") shall be the exclusive property of City. Data shall be given to City,
18 and City shall have the unrestricted right to use and disclose the Data in any manner and
19 for any purpose without payment of further compensation to Consultant. Copies of Data
20 may be retained by Consultant but Consultant warrants that Data shall not be made
21 available to any person or entity for use without the prior approval of City. This warranty
22 shall survive termination of this Agreement for five (5) years.

23 10. TERMINATION. Either party shall have the right to terminate this
24 Agreement for any reason or no reason at any time by giving fifteen (15) calendar days
25 prior written notice to the other party. In the event of termination under this Section, City
26 shall pay Consultant for services satisfactorily performed and costs incurred up to the
27 effective date of termination for which Consultant has not been previously paid. The
28 procedures for payment in paragraph 1 with regard to invoices shall apply. On the effective

1 date of termination, Consultant shall deliver to City all Data developed or accumulated in
2 the performance of this Agreement, whether in draft or final form, or in process. And
3 Consultant acknowledges and agrees that City's obligation to make final payment is
4 conditioned on Consultant's delivery of the Data to City.

5 11. CONFIDENTIALITY. Consultant shall keep all Data confidential and
6 shall not disclose the Data or use the Data directly or indirectly, other than in the course of
7 performing its services, during the term of this Agreement and for five (5) years following
8 expiration or termination of this Agreement. In addition, Consultant shall keep confidential
9 all information, whether written, oral or visual, obtained by any means whatsoever in the
10 course of performing its services for the same period of time. Consultant shall not disclose
11 any or all of the Data to any third party, or use it for Consultant's own benefit or the benefit
12 of others except for the purpose of this Agreement.

13 12. BREACH OF CONFIDENTIALITY. Consultant shall not be liable for
14 a breach of confidentiality with respect to Data that: (a) Consultant demonstrates
15 Consultant knew prior to the time City disclosed it; or (b) is or becomes publicly available
16 without breach of this Agreement by Consultant; or (c) a third party who has a right to
17 disclose does so to Consultant without restrictions on further disclosure; or (d) must be
18 disclosed pursuant to subpoena or court order.

19 13. AMENDMENT. This Agreement, including all Exhibits, shall not be
20 amended, nor any provision or breach waived, except in writing signed by the parties which
21 expressly refers to this Agreement.

22 14. LAW. This Agreement shall be construed in accordance with the laws
23 of the State of California, and the venue for any legal actions brought by any party with
24 respect to this Agreement shall be the County of Los Angeles, State of California for state
25 actions and the Central District of California for any federal actions. Consultant shall cause
26 all work performed in connection with construction of the Project to be performed in
27 compliance with (1) all applicable laws, ordinances, rules and regulations of federal, state,
28 county or municipal governments or agencies (including, without limitation, all applicable

1 federal and state labor standards, including the prevailing wage provisions of sections 1770
2 *et seq.* of the California Labor Code); and (2) all directions, rules and regulations of any
3 fire marshal, health officer, building inspector, or other officer of every governmental
4 agency now having or hereafter acquiring jurisdiction.

5 15. ENTIRE AGREEMENT. This Agreement, including all Exhibits,
6 constitutes the entire understanding between the parties and supersedes all other
7 agreements, oral or written, with respect to the subject matter in this Agreement.

8 16. INDEMNITY.

9 A. Consultant shall indemnify, protect and hold harmless City, its
10 Boards, Commissions, and their officials, employees and agents ("Indemnified
11 Parties"), from and against any and all liability, claims, demands, damage, loss,
12 obligations, causes of action, proceedings, awards, fines, judgments, penalties,
13 costs and expenses, including attorneys' fees, court costs, expert and witness fees,
14 and other costs and fees of litigation, arising or alleged to have arisen, in whole or
15 in part, out of or in connection with (1) Consultant's breach or failure to comply with
16 any of its obligations contained in this Agreement, including any obligations arising
17 from the Project's compliance with or failure to comply with applicable laws,
18 including all applicable federal and state labor requirements including, without
19 limitation, the requirements of California Labor Code section 1770 *et seq.* or (2)
20 negligent or willful acts, errors, omissions or misrepresentations committed by
21 Consultant, its officers, employees, agents, subcontractors, or anyone under
22 Consultant's control, in the performance of work or services under this Agreement
23 (collectively "Claims" or individually "Claim").

24 B. In addition to Consultant's duty to indemnify, Consultant shall
25 have a separate and wholly independent duty to defend Indemnified Parties at
26 Consultant's expense by legal counsel approved by City, from and against all
27 Claims, and shall continue this defense until the Claims are resolved, whether by
28 settlement, judgment or otherwise. No finding or judgment of negligence, fault,

1 breach, or the like on the part of Consultant shall be required for the duty to defend
2 to arise. City shall notify Consultant of any Claim, shall tender the defense of the
3 Claim to Consultant, and shall assist Consultant, as may be reasonably requested,
4 in the defense.

5 C. If a court of competent jurisdiction determines that a Claim was
6 caused by the sole negligence or willful misconduct of Indemnified Parties,
7 Consultant's costs of defense and indemnity shall be (1) reimbursed in full if the
8 court determines sole negligence by the Indemnified Parties, or (2) reduced by the
9 percentage of willful misconduct attributed by the court to the Indemnified Parties.

10 D. The provisions of this Section shall survive the expiration or
11 termination of this Agreement.

12 17. AMBIGUITY. In the event of any conflict or ambiguity between this
13 Agreement and any Exhibit, the provisions of this Agreement shall govern.

14 18. NONDISCRIMINATION.

15 A. In connection with performance of this Agreement and subject
16 to applicable rules and regulations, Consultant shall not discriminate against any
17 employee or applicant for employment because of race, religion, national origin,
18 color, age, sex, sexual orientation, gender identity, AIDS, HIV status, handicap or
19 disability. Consultant shall ensure that applicants are employed, and that
20 employees are treated during their employment, without regard to these bases.
21 These actions shall include, but not be limited to, the following: employment,
22 upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or
23 termination; rates of pay or other forms of compensation; and selection for training,
24 including apprenticeship.

25 B. It is the policy of City to encourage the participation of
26 Disadvantaged, Minority and Women-Owned Business Enterprises in City's
27 procurement process, and Consultant agrees to use its best efforts to carry out this
28 policy in its use of subconsultants and contractors to the fullest extent consistent

1 with the efficient performance of this Agreement. Consultant may rely on written
2 representations by subconsultants and contractors regarding their status.
3 Consultant shall report to City in May and in December or, in the case of short-term
4 agreements, prior to invoicing for final payment, the names of all subconsultants
5 and contractors hired by Consultant for this Project and information on whether or
6 not they are a Disadvantaged, Minority or Women-Owned Business Enterprise, as
7 defined in Section 8 of the Small Business Act (15 U.S.C. Sec. 637).

8 19. EQUAL BENEFITS ORDINANCE. Unless otherwise exempted in
9 accordance with the provisions of the Ordinance, this Agreement is subject to the
10 applicable provisions of the Equal Benefits Ordinance (EBO), section 2.73 et seq. of the
11 Long Beach Municipal Code, as amended from time to time.

12 A. During the performance of this Agreement, the Consultant
13 certifies and represents that the Consultant will comply with the EBO. The
14 Consultant agrees to post the following statement in conspicuous places at its place
15 of business available to employees and applicants for employment:

16 "During the performance of a contract with the City of Long Beach, the
17 Consultant will provide equal benefits to employees with spouses and its
18 employees with domestic partners. Additional information about the City of
19 Long Beach's Equal Benefits Ordinance may be obtained from the City of
20 Long Beach Business Services Division at 562-570-6200."

21 B. The failure of the Consultant to comply with the EBO will be
22 deemed to be a material breach of the Agreement by the City.

23 C. If the Consultant fails to comply with the EBO, the City may
24 cancel, terminate or suspend the Agreement, in whole or in part, and monies due or
25 to become due under the Agreement may be retained by the City. The City may
26 also pursue any and all other remedies at law or in equity for any breach.

27 D. Failure to comply with the EBO may be used as evidence
28 against the Consultant in actions taken pursuant to the provisions of Long Beach

1 Municipal Code 2.93 et seq., Contractor Responsibility.

2 E. If the City determines that the Consultant has set up or used its
3 contracting entity for the purpose of evading the intent of the EBO, the City may
4 terminate the Agreement on behalf of the City. Violation of this provision may be
5 used as evidence against the Consultant in actions taken pursuant to the provisions
6 of Long Beach Municipal Code Section 2.93 et seq., Contractor Responsibility.

7 20. NOTICES. Any notice or approval required by this Agreement shall
8 be in writing and personally delivered or deposited in the U.S. Postal Service, first class,
9 postage prepaid, addressed to Consultant at the address first stated above, and to City at
10 333 West Ocean Boulevard, Long Beach, California 90802, Attn: City Manager, with a copy
11 to the City Engineer at the same address. Notice of change of address shall be given in
12 the same manner as stated for other notices. Notice shall be deemed given on the date
13 deposited in the mail or on the date personal delivery is made, whichever occurs first.

14 21. COPYRIGHTS AND PATENT RIGHTS.

15 A. Consultant shall place the following copyright protection on all
16 Data: © City of Long Beach, California ____, inserting the appropriate year.

17 B. City reserves the exclusive right to seek and obtain a patent or
18 copyright registration on any Data or other result arising from Consultant's
19 performance of this Agreement. By executing this Agreement, Consultant assigns
20 any ownership interest Consultant may have in the Data to City.

21 C. Consultant warrants that the Data does not violate or infringe
22 any patent, copyright, trade secret or other proprietary right of any other party.
23 Consultant agrees to and shall protect, defend, indemnify and hold City, its officials
24 and employees harmless from any and all claims, demands, damages, loss, liability,
25 causes of action, costs or expenses (including reasonable attorney's fees) whether
26 or not reduced to judgment, arising from any breach or alleged breach of this
27 warranty.

28 22. WAIVER. The acceptance of any services or the payment of any

1 money by City shall not operate as a waiver of any provision of this Agreement or of any
2 right to damages or indemnity stated in this Agreement. The waiver of any breach of this
3 Agreement shall not constitute a waiver of any other or subsequent breach of this
4 Agreement.

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

8 24. TAX REPORTING. As required by federal and state law, City is
9 obligated to and will report the payment of compensation to Consultant on Form 1099-
10 Misc. Consultant shall be solely responsible for payment of all federal and state taxes
11 resulting from payments under this Agreement. Consultant shall submit Consultant's
12 Employer Identification Number (EIN), or Consultant's Social Security Number if
13 Consultant does not have an EIN, in writing to City's Accounts Payable, Department of
14 Financial Management. Consultant acknowledges and agrees that City has no obligation
15 to pay Consultant until Consultant provides one of these numbers.

16 25. ADVERTISING. Consultant shall not use the name of City, its officials
17 or employees in any advertising or solicitation for business or as a reference, without the
18 prior approval of the City Manager or designee.

19 26. AUDIT. City shall have the right at all reasonable times during the
20 term of this Agreement and for a period of five (5) years after termination or expiration of
21 this Agreement to examine, audit, inspect, review, extract information from and copy all
22 books, records, accounts and other documents of Consultant relating to this Agreement.

23 27. THIRD PARTY BENEFICIARY. This Agreement is not intended or
24 designed to or entered for the purpose of creating any benefit or right for any person or
25 entity of any kind that is not a party to this Agreement.

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

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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.

PUBLIC FINANCIAL MANAGEMENT, INC., a Pennsylvania corporation

May 20, 2015

By [Signature]
Name Michael Berwanger
Title Managing Director

_____, 2015

By _____
Name _____
Title _____

"Consultant"

CITY OF LONG BEACH, a municipal corporation

June 17, 2015

By [Signature] EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.
City Manager

"City" Assistant City Manager

This Agreement is approved as to form on June 9, 2015.

CHARLES PARKIN, City Attorney

By [Signature]
Deputy

EXHIBIT "A"

Rates or Charges

Given the wide range of financings the City has been involved with both in terms of size and complexity we have attempted to craft a fee schedule that covers all possibilities. It has been the City's and PFM's historic working relationship to come to a mutually understandable fee arrangement given the specifics of each transaction vs. a blanket fee for all transactions. We hope to continue this practice, but wanted to address the question. As such, we've proposed fee schedules that cover "Standard" transactions which we would describe as those which neither party would consider overly complex (e.g. City's recent Lease Revenue refinancing). The second schedule provides a possible range of fees for more complex financings such as the Aquarium deal or the Alamitos Bay Marina Rebuild transaction. Not being able to anticipate all future possibilities we would propose to negotiate a mutually acceptable fee within this range to cover the additional work involved.

Transaction Size	Standard	Complex
<\$25 million	\$40,000	\$40,000 to \$60,000
\$25 million - \$60 million	\$60,000	\$60,000 to \$80,000
>\$60 million	\$75,000	\$75,000 to \$125,000

PFM would propose a fee of \$27,500 for TRANs.

NON-TRANSACTION/SPECIAL PROJECTS

For special projects and advisory work not related to a transaction, such as the development of a financial model, a specific reserve or financial planning study or project negotiations/development work, PFM proposes that the City and PFM would draft and agree to a scope of the requested services. PFM would propose to negotiate a separate fixed fee arrangement or use the hourly rates shown here (PFM does not charge for administrative time logged by Senior Associates and Associates) to provide a reasonable estimate of cost before work began and utilize these rates for final project billing based on actual hours required for the task. Significant variance between estimate and final cost of greater than 10% will require added approvals and explanation prior to payment. Under no circumstances would PFM assess hourly fees without receipt of a notice to proceed from the City.

PFM HOURLY RATES

Managing Director	\$ 350
Director	\$ 325
Senior Managing Consultant	\$ 300
Senior Analyst	\$ 250
Analyst	\$ 225

Specific to the City's Scope of Services we saw items 3.1, 3.2, 3.5, 3.12/3.14 (As caveated above, regarding the example of the rating work which may already be included in transaction work.), and 3.22 as largely being included in these fees.

STRUCTURED PRODUCT ADVISORY SERVICES

At the direction of the City, PFM could provide requisite investment advisory services (including escrow structuring and procurement, bond proceeds reinvestments, and arbitrage rebate). Those services would be provided under separate engagements and compensation arrangements directly through PFM Asset Management LLC (PFMAM). For the structuring and bidding of investment agreements, PFM Asset Management LLC would negotiate fixed fees with the City based on the complexity of the investment agreements being procured.

Specific to Scope Item 3.19, PFM is comfortable providing a general level of advice as it pertains to its transaction work which would be covered by our transaction fees. However, if we are asked to more specifically assist with bidding or run bidding activities we are required by the SEC as a registered investment advisor to have PFMAM do such work and follow the fee negotiation process as detailed above. We are happy to discuss this in greater detail so the City understands the regulatory limitations place on PFM and PFMAM in this regard.

EXHIBIT “B”

Materials/Information Furnished: None