

30751

AGREEMENT FOR LEGAL SERVICES

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2 THIS AGREEMENT FOR LEGAL SERVICES is made and entered, in
3 duplicate, as of February 19, 2008 for reference purposes only, by and between DAVIS
4 WRIGHT TREMAINE LLP ("Special Counsel") and the CITY OF LONG BEACH, a
5 municipal corporation ("City").

6 WHEREAS, the City Attorney has identified a need for the legal services of
7 Special Counsel and Special Counsel is willing and able to perform those services; and

8 WHEREAS, the City and Special Counsel must cooperate to deliver quality
9 legal services in an efficient manner and desire to follow the parameters of this
10 Agreement toward that end;

11 NOW THEREFORE, in consideration of the mutual terms and conditions
12 contained herein, the parties agree as follows:

13 1. Scope of Services. Special Counsel shall perform all legal services
14 necessary and appropriate to the Matter for which Special Counsel has been engaged,
15 namely: advise, counsel, and representation regarding California Public Utilities
16 Commission Docket A.08-02-001, commonly known as the "So Cal Gas BCAP" (the
17 "Services" or the "Matter"). The City has engaged Special Counsel because Special
18 Counsel is uniquely qualified in the area of law required.

19 2. A. Because the City has engaged Special Counsel due to its
20 expertise and reputation, Special Counsel and the City Attorney or designee will agree on
21 a staffing profile that identifies the partners, associates, and paralegals who are
22 authorized to work on the Matter, including their respective billing rates, which will be
23 attached as Addendum subsequent to execution of this Agreement. Individuals whose
24 names are not included in the staffing profile may not work on the Matter without the prior
25 approval of the City Attorney, or designee. The City reserves the right to refuse to pay for
26 work performed by any individual whose name is not listed or who has not received such
27 prior approval, or whose rate has not been approved.

28 B. Special Counsel shall not hire or otherwise incur any

1 obligation to pay other counsel, specialists, consultants, or experts for services in
2 connection with the Matter without the prior written approval of the City Attorney or
3 designee.

4 1. Fee. City shall pay to Special Counsel in due course of payments
5 compensation at the hourly rates identified in the staffing profile and reimbursement of
6 costs as further described herein and in the "Guidelines" also attached hereto, not to
7 exceed One Hundred Fifty Thousand Dollars (\$150,000.00) per annum for the term of
8 this Agreement, subject to appropriation of funds in the second year of the term.

9 2. Billing. A. Special Counsel shall keep a record of time spent on the
10 matter in increments of one-tenth (.1) of an hour.

11 B. Each task shall be distinctly and completely identified; the City
12 will not pay invoices which contain block billing. The billing entry must contain the name
13 or initials of the individual performing the task, the nature of the task, the date it was
14 performed, and the length of time it took.

15 C. The City will not pay for the use of attorneys and paralegals to
16 perform Services which are secretarial or administrative.

17 D. The City reserves the right to audit all invoices. The City will
18 not pay for costs incurred by Special Counsel in preparing an invoice, correcting it, or
19 resubmitting it.

20 E. Special Counsel shall submit invoices no later than the last
21 day of the month following the month in which Services were performed and actual costs
22 incurred. If Special Counsel submits invoices after said date, then the invoice(s) may be
23 subject to a discount of ten percent (10%) for each month or portion thereof that the
24 invoice is not timely submitted.

25 5. Costs. The City will reimburse Special Counsel for the reasonable
26 costs incurred by Special Counsel as a result of its representation of the City in the
27 Matter, in accordance with the Guidelines. Costs shall be actual, without the addition of
28 administrative or overhead charges, and must be documented. The City will not pay for

1 costs that do not contain supporting documentation satisfactory to the City Attorney, or
2 designee.

3 6. Term. The term of this Agreement shall begin at 12:01 a.m. on
4 February 1, 2008, and shall end on January 31, 2010 or when the Matter is concluded or
5 on fifteen (15) days' prior notice from the City to Special Counsel.

6 7. Insurance. As a condition precedent to the effectiveness of this
7 Agreement, Special Counsel shall procure and maintain at its expense for the duration of this
8 Agreement from insurance companies admitted to write insurance in California or from
9 authorized non-admitted insurance companies that have ratings of or equivalent to A.VIII by
10 A.M. Best Company professional liability or errors and omissions liability insurance in an
11 amount not less than One Million Dollars (\$1,000,000) per claim.

12 Any self-insurance program, self-insured retention or deductible must
13 be separately approved in writing by the City's Risk Manager or designee and shall protect
14 the City, its officials, employees and agents in the same manner and to the same extent as
15 they would have been protected had the policy or policies not contained retention or
16 deductible provisions. Each insurance policy shall be endorsed to state that coverage shall
17 not be reduced, non-renewed, or canceled except after thirty (30) days' prior written notice to
18 the City, and shall be primary and not contributing to any other insurance or self-insurance
19 maintained by the City, its officials and employees. Special Counsel shall notify the City in
20 writing within five (5) days after any insurance required herein has been voided by the insurer
21 or canceled by the insured.

22 Special Counsel shall deliver to the City certificates of insurance and
23 original endorsements for approval as to sufficiency and form prior to the start of performance
24 hereunder. The certificate and endorsements for each insurance policy shall contain the
25 original signature of a person authorized by that insurer to bind coverage on its behalf. The
26 procuring or existence of insurance shall not be deemed or construed as a limitation on
27 Special Counsel's liability or as performance of or compliance with any indemnity provisions
28 herein. City reserves the right to require complete certified copies of all policies at any time.

1 Special Counsel shall make available to the City all books, records, and other information
2 relating to the insurance required herein during normal business hours. Any modification or
3 waiver of the insurance requirements herein shall only be made with the approval of the City
4 Risk Manager or designee. In addition, Special Counsel shall, at least thirty (30) days prior to
5 expiration of the insurance required hereunder, furnish to the City certificates of insurance
6 and endorsements evidencing renewal of such insurance.

7 8. Conflict of Interest. Special Counsel, by executing this Agreement,
8 certifies that, at the time Special Counsel executes this Agreement and for the duration of
9 this Agreement, Special Counsel does not have and will not perform services for any
10 other client which would create a conflict as between the interests of the City hereunder
11 and the interests of such other client, subject to written waiver by the City.

12 9. Nondiscrimination. In connection with performance of Services and
13 subject to applicable rules and regulations, Special Counsel shall not discriminate on the
14 basis of race, religion, national origin, color, age, sex, sexual orientation, AIDS, AIDS
15 related condition, handicap, disability, or Vietnam Era veteran status. It is the policy of
16 the City to encourage the participation of Minority Business Enterprises and Women-
17 owned Business Enterprises and the City urges Special Counsel to do likewise.

18 10. Miscellaneous. A. This Agreement shall not be amended, nor any
19 provision or breach hereof waived except in writing signed by the parties which refers to
20 this Agreement.

21 B. This Agreement shall be governed by and construed pursuant
22 to the laws of the State of California. Special Counsel shall comply with all laws,
23 ordinances, rules, and regulations covering performance of Services.

24 C. This Agreement, including the Guidelines and exhibits, if any,
25 constitutes the entire understanding between the parties and supersedes all other
26 agreements, oral or written, with respect to the Services and the Matter.

27 D. If there is any inconsistency or ambiguity between this
28 Agreement, the Guidelines, or the Addendum, this Agreement shall control.

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333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

1 E. If there is any legal proceeding between the parties to enforce
2 or interpret this Agreement or to protect or establish any rights or remedies hereunder,
3 the prevailing party shall be entitled to its costs and expenses, including reasonable
4 attorneys' fees and court costs (including appeals).

5 F. The acceptance of Services or payment of money by the City
6 shall not operate as a waiver of any provision of this Agreement. The waiver of any
7 breach of this Agreement shall not constitute a waiver of any other or subsequent breach
8 of this Agreement.

9 G. This Agreement is intended by the parties to benefit
10 themselves only and is not in any way intended or entered for the purpose of creating any
11 benefit or right for any person or entity that is not a party to this Agreement.

12 11. Notice. Notice shall be in writing and personally delivered or
13 deposited in the U.S. Mail, first class, postage prepaid to Special Counsel at Davis Wright
14 Tremaine LLP, Attn.: Edward W. O'Neill and to the City at 333 West Ocean Boulevard,
15 11th Floor, Long Beach, California 90802, Attn.: City Attorney. Notice may be given by
16 fax to the City Attorney at (562) 436-1579 and to Special Counsel at (206) 757-7700,
17 provided that duplicate notice is simultaneously delivered or mailed. Notice shall be
18 deemed given on the date of personal delivery or forty-eight hours after deposit in the
19 mail. Notice of change of address shall be given as described herein for other notices.

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

22 SPECIAL COUNSEL

23 DAVIS WRIGHT TREMAINE LLP

24
25 DATED: July 11, 2008

26 By Edward W. O'Neill


27 Title: PARTNER

28 "Special Counsel"

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CITY OF LONG BEACH, a municipal corporation

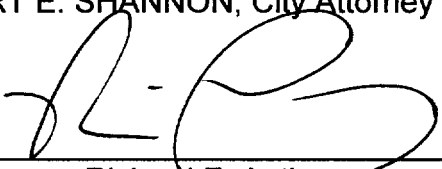
DATED: July 28

By  Assistant City Manager

"City" City Manager **EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER**

This Agreement is approved as to form on 7.16 2008.

ROBERT E. SHANNON, City Attorney

By  _____
Richard F. Anthony
Deputy City Attorney

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GUIDELINES FOR BILLING

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2 In addition to the provisions stated in the Agreement, the following
3 guidelines for billing apply:

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

7 2. The City expects Special Counsel to select the individual most
8 suitable for the task required and the specific needs of the Matter, and to use the
9 maximum efficiencies available. Billings for services performed by the inappropriate level
10 of personnel will be reduced by the City based on rate adjustments for the appropriate
11 level of personnel.

12 3. The City Attorney or designee may request a written budget and
13 timeline for the Matter. The budget shall include all projected fees and costs to be
14 incurred by Special Counsel for the Matter, commencing on the date that Special
15 Counsel receives the request. The budget and timeline shall include the specific tasks to
16 be performed (including such things as discovery and motions for trial, preparation of
17 documents for transactional services, and anticipated research and investigations).
18 Special Counsel shall identify the projected total hours that will be billed and who will be
19 performing those hours of service, plus fees and costs for each task. The budget and
20 timeline shall be a good faith estimate and as complete as possible. Any deviation from
21 the budget and any deviation over 10% on any task identified in the budget must be
22 discussed in advance with the City Attorney, or designee, and the billing related to that
23 task is subject to adjustment so as to conform to the budget.

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

27 If the billings of Special Counsel are approaching the "not to exceed"
28 amount shown in Section 3 of the Agreement, then Special Counsel shall submit, in

1 writing to the City Attorney or designee, the reasons why additional funds will be required
2 to complete the Services. Special Counsel is cautioned that the City cannot pay invoices
3 which reflect fees over the "not to exceed" amount in Section 3 of the Agreement.

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

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

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

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

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

14 9. The City will reimburse for facsimiles sent but not received by
15 Special Counsel and photocopies made at a rate not to exceed \$.12 per page; the
16 number of pages of facsimiles and to whom they were sent, and the number of pages or
17 photocopies made must appear on the invoice. Special Counsel shall limit the making of
18 photocopies and the sending of facsimiles. The City will reimburse actual costs for
19 computerized legal research if it is reasonable and necessary; however, these charges
20 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
25 attorney services to send and to file papers and other materials. The City reserves the
26 right to reduce excessive charges for messengers and Federal Express or other similar
27 services which are not fully explained or which are not necessary, in the City's
28 determination.

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
6 indirect route chose for Special Counsel's personal reasons.

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

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

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

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

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The City will reimburse Special Counsel, while on extended travel, for the 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.

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ADDENDUM

NAME	POSITION/TITLE	HOURLY RATE
EDWARD W. O'NEILL	PARTNER	\$480/HR
SALLE YOO	OF COUNSEL	\$ 360/HR
JOSH DAVIDSON	ASSOCIATE	\$ 230/HR
JUDY PAU	PARALEGAL	\$ 185/HR