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LOCATION AGREEMENT

between

**City of Long Beach,
a California municipal corporation**

and

**M.O. Dion & Sons, Inc.,
a California corporation/
Amber Resources, LLC,
a California limited liability company**

[Dated as of June 17, 2014 for reference purposes only]

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LOCATION AGREEMENT

ARTICLE 1. PARTIES AND EFFECTIVE DATE.

1.1 Parties. This Location Agreement ("Location Agreement") is entered into by and between the CITY OF LONG BEACH, a California municipal corporation and charter law city ("City") and M.O. DION & SONS, INC., a California corporation and AMBER RESOURCES, LLC, a California limited liability company dba SAWYER PETROLEUM (collectively, "Dion"). Dion's corporate offices are located at 1543 W. 16th St, Long Beach, CA 90813. City's offices are located at 333 West Ocean Boulevard, 6th Floor, Long Beach, California 90802.

1.1.1 City and Dion are sometimes individually referred to herein as "Party" and collectively as "Parties."

1.1.2 This Location Agreement shall be binding upon and shall inure to the benefit of the City and Dion and their respective successors, heirs, and assigns.

1.2 Effective Date. This Location Agreement will become effective on the date on which signed by the appropriate authorities of both the City and Dion (the "Effective Date").

ARTICLE 2. RECITALS

2.1 Dion operates a commercial fuel and lubricant retail distribution business in Long Beach, California.

2.2 Dion has proposed to maintain its retail sales and distribution center in Long Beach and to centralize and streamline its Retail Sales Office (as defined below) and order entry function in Long Beach.

2.3 Dion also may engage in sales and leases to affiliated companies and others.

2.4 The City desires to incentivize third party companies to locate or consolidate and grow their Retail Sales Offices in the City. City may pay inducements to third party companies based on a percentage of the Local Sales Tax Revenues (as defined herein) to be generated for the City by the third party companies in the City, as more fully described herein.

2.5 The City, in consideration of the additional Local Sales Tax Revenues to be paid by Dion for the benefit of the City, which the City would not otherwise realize,

desires to provide City Payments (as defined herein) to Dion as an incentive for maintaining, consolidating and expanding its current Retail Sales Office's operations in Long Beach.

2.6 City Payments for each Fiscal Year will be an amount paid from any legally available source of funds and shall be calculated by a percentage of the Local Sales Tax Revenues (as defined herein) generated in the City by Dion and received by the City.

2.7 The location of Dion's Retail Sales Office and/or Buying Company in the City will provide significant public benefits to the City, in that the additional Local Sales Tax Revenues to be paid by Dion represent a substantial and significant source of additional public revenue for the City, which may be used by the City for the funding of necessary public services and facilities, including, without implied limitation, public safety services and facilities.

2.8 Dion and City wish to enter into this Agreement for the purposes described above.

ARTICLE 3. DEFINITIONS.

3.1 Definitions. Unless the context otherwise requires, the terms defined in this Article 3 shall for all purpose hereto, and of any amendment hereof, and of any opinion or report or other document mentioned herein or therein have the meanings defined herein, the following definitions to be equally applicable to both the singular and plural forms of any of the terms defined herein.

3.1.1 An "Affiliate" of a person is another person whom it controls, by whom it is controlled, or with whom it is under common control.

3.1.2 "Business Day" means a day which is not a Saturday, Sunday or legal holiday on which banking institutions in the State or the City are closed.

3.1.3 "Buying Company" means a separate legal entity, which purchases machinery, equipment and other consumables for resale or lease to Affiliates and others.

3.1.4 "City Payment" means, for each Fiscal Year of the City during which Dion has its Retail Sales Office located in the City, the following amount:

For all Fiscal Quarters commencing with the First Fiscal Quarter and throughout the Term of this Agreement, an amount equal to sixty-five percent (65%) of the cumulative dollars of Local Sales Tax Revenues generated in each Fiscal Year, once the threshold amount \$490,000 of Local Sales tax Revenue generated by Dion and paid to

the City has been attained in each Fiscal Year. If 35% of cumulative Local Sales Tax Revenue is less than \$490,000 in each Fiscal Year, then Dion will not receive a 65% rebate, but will receive an amount that allows the City of Long Beach to first receive \$490,000.

3.1.5 "Effective Date" shall have the meaning set forth in Section 1.2.

3.1.6 "First Fiscal Quarter" means the Fiscal Quarter commencing on October 1, 2014.

3.1.7 "Fiscal Quarter" means one calendar year quarter within the Term and commencing on January 1, April 1, July 1, or October 1, and ending on, as applicable, the immediately following March 31st, June 30th, September 30th, or December 31st. As an example, the Fiscal Quarter commencing January 1st shall end on the immediately following March 31st, the Fiscal Quarter commencing on April 1st shall end on the immediately following June 30th, and so on.

3.1.8 "Fiscal Year" means October 1 through September 30.

3.1.9 "Local Sales Tax Revenues" means that portion of the Sales and Use Tax, if any, paid by Dion upon taxable sales and uses attributable to the operations of Dion and allocated and paid to the City under the Uniform Local Sales and Use Tax Law (Part 1.5, Division 2 of the California Revenue and Taxation Code). Local Sales Tax Revenues shall not include (i) Penalty Assessments, (ii) any Sales Tax levied by, collected for or allocated to the State of California, the County of Los Angeles, a district or any entity (including an allocation to a statewide or countywide pool) other than the City, (iii) any administrative fee charged by the SBE, (iv) any Sales or Use Tax subject to any sharing, rebate, offset or other charge imposed pursuant to any applicable provision of federal, state or local (except the City's) law, rule, or regulation, (v) any Sales Tax attributable to any transaction not consummated within the Term, or (vi) any Sales Tax (or other funds measured by Sales Tax) required by the State of California to be paid over to another public entity (including the State) or set aside and/ or pledged to a specific use other than for deposit into or payment from the City's general fund including retroactively.

Without limiting the generality of the foregoing, City and Dion acknowledge that as of the Effective Date of this Agreement, the California legislature has adopted certain legislation commonly known as the triple-flip which would divert to the State of California up to one-quarter (1/4) of the Sales and Use Tax Revenue which would otherwise be payable to the City pursuant to the Sales Tax and Use Tax Law as it existed prior to enactment of the above-referenced legislation. City and Dion acknowledge that such legislation will cause a reduction of up to approximately twenty-five percent (25%) of the Local Sales Tax Revenues which would otherwise be

attributable to Sales and that such reduction will cause a corresponding effect. Furthermore, City acknowledges that it is possible that the legislation described above, or some alternative legislation (whether or not similar to the “triple flip”), may be enacted and effective during one or more subsequent years during the Term and may materially and negatively impact the amount of Local Sales and Use Tax Revenues and, accordingly, City Payments. City does not make any representation, warranty or commitment concerning the future actions of the California legislature with respect to the allocation of Sales Taxes to the City. Dion agrees that it is undertaking its obligations under this Agreement after having considered, and is expressly assuming the risk of, the possibility of such legislation and its resultant impact on City Payments.

The foregoing paragraph notwithstanding, the City acknowledges that the California legislature may provide for the payment to the City of other revenues for the purpose of offsetting any losses in Local Sales and Use Tax Revenues resulting from the enactment of legislation of the type described in the immediately preceding paragraph. The City agrees that, should the California legislature provide for such offsetting revenues, then for purposes of this Agreement and the computation of any City Payments which may become due to Dion hereunder, any such offsetting revenues which are (i) intended to offset the loss of sales tax revenues to the City, (ii) actually received by the City, and (iii) not subject to any restrictions on use beyond those which are otherwise generally applicable to sales tax revenues received by California municipalities, will be deemed to be “Local Sales Tax Revenues” within the meaning of this Agreement.

3.1.10 “Location Agreement” shall have the meaning set forth in Section 1.1.

3.1.11 “Penalty Assessments” means penalties, assessments, collection costs and other costs, fees or charges resulting from late or delinquent payment of Sales or Use Tax and which are levied, assessed or otherwise collected from Dion.

3.1.12 “Retail Sales” means all sales of tangible personal property to any person or entity which is subject to the Sales and Use Tax Law and which generates Local Sales Tax Revenues.

3.1.13 “Retail Sales Office” means any form of business entity of Dion, or a subsidiary or Affiliate of Dion, which maintains a retail sales operation within the City at which Retail Sales transactions are consummated pursuant to the Sales Tax Law.

3.1.14 “SBE” means the California State Board of Equalization, and any successor agency.

3.1.15 “Sales and Use Tax Law” means (i) Part 1 of Division 2 of the California Revenue and Taxation Code, commencing with Section 6001, and any

successor law thereto, (ii) any legislation allowing the City or other public agency with jurisdiction in the City to levy any form of sales and use tax on the operations of Dion, and (iii) regulations of the SBE and other binding rulings and interpretations relating to (i) and (ii) hereof.

3.1.16 "Sales Tax" means all sales and use taxes levied under the authority of the California Sales and Use Tax Law, excluding any Sales Tax that is to be refunded to Dion because of an overpayment of Sales Tax.

3.1.17 "Term" shall mean that period commencing as of the First Fiscal Quarter and ending as of the last date of the eightieth (80th) Fiscal Quarter thereafter, unless earlier terminated or extended as provided by this Agreement.

ARTICLE 4. GENERAL TERMS

4.1 Location and Operation of Dion Within City. Dion has agreed to locate or consolidate all of its current and certain of its future California Retail Sales Offices in the City and agrees to continue to operate in the City, until this Agreement is terminated by either Party as provided in Section 4.8 hereof.

4.1.1 The Retail Sales Office of Dion has obtained, and will maintain, a retail sales tax permit from the SBE. Except as otherwise provided in Section 4.1.2, Dion agrees to conduct its business so that the place of sale for all Retail Sales made by Dion in California during the term of this Agreement will be the City pursuant to the Sales and Use Tax Law. In all sales reports filed by Dion with the SBE, relating to Retail Sales, where such a designation is permitted or required under the Sales and Use Tax Law, Dion shall specify the City as the place of sale for all of its Retail Sales, with the exception of Retail Sales from a location other than the City as permitted by Section 4.1.2.

4.1.2 Notwithstanding Section 4.1.1 of this Agreement, and subject to Section 4.1.3 of this Agreement,

i. The place of sale for Retail Sales made by Dion in California during the term of this Agreement is not required to be the City if Dion makes a reasonable determination that certain sales activities cannot reasonably be relocated to the City due to compliance with Sales and Use Tax Law, and as a result such sales activities continue to be conducted where they were conducted prior to the effective date of this Agreement; and

ii. Dion may make Retail Sales in California from a location that is not within the City, and/or move and/or transfer sales operations from its Retail Sales Office in the City to an additional location in California, to the extent that any one or more of the following circumstances applies in whole or in part:

- a. Dion acquires another business with existing California operations, or acquires all or substantially all of the assets of such a business, or Dion is acquired or involved in a merger, consolidation or sale of all or substantially all of its assets;
- b. Dion changes its business model;
- c. The building in the city in which Dion's Retail Sales Offices are located is damaged, destroyed, or condemned, or access to the property is lost or materially interfered with, or Dion is otherwise prevented from using and occupying the property for its Retail Sales Offices for any reason beyond the reasonable control of Dion;
- d. Dion outgrows its space at the property in the City, or its lease terminates or expires by its terms or is terminated for any other reason, and Dion is unable to obtain replacement space suitable for Dion's needs (taking into account the quality, size and location of any such replacement space, and other commercially reasonable criteria) within the City on commercially reasonable terms;
- e. California changes its law as to how the Bradley-Burns sales tax (or successor) is allocated;
- f. City is in default under this Agreement;
- g. City is no longer authorized or permitted to pay the City Payment to Dion;
- h. There is a bona fide business reason to make certain sales from a different location than Dion's Retail Sales Office within the City (e.g., as a condition of sale required by the buyer).

4.1.3

- i. In the event Dion makes Retail Sales in California from a location that is not within the City as permitted by clauses b or h of Section 4.1.2(ii), it may not be the case that the sales occurred because Dion relocated existing Retail Sales as of that date from the City.
- ii. From and after the occurrence of an event described in clause a of Section 4.1.2(ii), Dion, or the successor merged entity, may make Retail Sales in California from one or more locations that are not within the City, provided that Dion does not relocate existing Retail Sales as of that date from the City to the merger that is located outside of the City.

iii. In the event of the occurrence of an event described in clause c or d of Section 4.1.2(ii), Dion will not relocate its Retail Sales Office to a location that is not within the City unless it first notifies City of its difficulty in finding suitable replacement space and gives City a reasonable opportunity, for a period not to exceed two months, to identify or provide replacement space within the City suitable for Dion's needs (taking into account the quality, size and location of any such replacement space, and other commercially reasonable criteria) on commercially reasonable terms.

4.2 Payment of the City Payment. As consideration for Dion's continued location and operation in the City, and the potential future establishment of a Buying Company in the City, as described in Section 4.1 above, City shall pay Dion the City Payment. In addition, in the event any Affiliates of Dion locate or relocate their sales offices in or to the City during the term of this Agreement, the term "Local Sales Tax Revenues" will be deemed to include Local Sales Tax Revenues derived from taxable sales and uses attributable to the operations of such Affiliates and City shall pay the City Payment attributable thereto to Dion, or such Affiliates, as directed by Dion. Such payment will be made within sixty (60) days following the receipt by the City of the quarterly final reconciliation reports from the SBE relating to the Fiscal Quarter occurring within the Term, receipt by City of any and all Data and Documentation applicable to such Fiscal Quarter, and receipt of the Local Sales Tax Revenues by the City. If the California legislature significantly increases the look back period for challenges, this payment schedule may be impacted. The City will notify Dion if this is the case.

4.2.1 Conditions Precedent to City Payment. City's obligations under Section 4.2 are contingent on a year-to-year basis and, for each Fiscal Quarter within the Term, upon the satisfaction of the following conditions precedent in each Fiscal Quarter:

- i. Dion having, for the entirety of such Fiscal Quarter, fulfilled its material obligations under Section 4.1.1 of this Agreement;
- ii. City's receipt and reasonable approval of the Data and Documentation; and
- iii. The City's receipt of Local Sales Tax Revenues of no less than the threshold amount of \$490,000 for the Fiscal Year in which such Fiscal Quarter falls.

4.2.2 Data and Documentation. For the purposes of this Agreement, the term "Data and Documentation" means any and all sales and use tax returns, bills, invoices, schedules, vouchers, receipts, cancelled checks, statements and other documents reasonably required by City to evidence Local Sales Tax Revenues paid by Dion to the City.

4.2.3 Adequate Consideration. The City Payments due and payable shall constitute the total payment to Dion for the Fiscal Year to which they relate, and shall be paid by City for and in consideration of the location and operation by Dion of the Retail Sales Office in the City during such Fiscal Year. The Parties have determined and agreed that the City Payment due and payable during each Fiscal Quarter represents fair consideration to Dion for its covenants and obligations hereunder.

Both City and Dion expressly acknowledge and agree that Dion will receive no compensation under this Agreement other than the City Payment. Dion will not be entitled to any reimbursement or other compensation from the City for any costs incurred by Dion in performing, preparing to perform or continuing its obligations under this Agreement for the term of the Agreement.

4.2.4 City Business License and Permits. Dion acknowledges that it is solely responsible for any and all City Business License Fees and any applicable permits.

4.2.5 No Carry Forward or Back. City and Dion acknowledges and agrees that the calculation and determination of all financial components of the Parties' rights and obligations under this Agreement shall be computed on a Fiscal Year basis. Revenues generated in one Fiscal Year may not be carried forward or back to any prior or future Fiscal Year, it being the express agreement and understanding of the Parties that for each Fiscal Year the financial obligations of the Parties and satisfaction of the conditions precedent to such obligations shall be determined and made independently of any other Fiscal Year.

4.2.6 Escrow/Recapture of City Payments. If, at any time during or after the Term of this Agreement, there is a challenge to all or any portion of the Local Sales Tax Revenues received by the City, then the City will stop making the City Payment on the disputed amounts and put 100% of the disputed amounts (both the City portion and the Dion portion) in an escrow account to be released after the challenge has been resolved. If the challenge is resolved successfully the City Payments will be made from the escrow amount and the remainder will return to the City. If the challenge is not resolved successfully and the SBE determines that all or any portion of the Local Sales Tax Revenues received by the City were improperly allocated and/or paid to the City (an "improper allocation"), and if SBE requires repayment of, offsets against future Sales Tax payments, or otherwise recaptures from the City those improperly allocated and/or paid Local Sales Tax Revenues, then the required repayment amounts shall come first from the escrow account. If repayment amounts remain, Dion shall, within sixty (60) days after written demand from City, repay all City Payments (or applicable portions thereof) theretofore paid to Dion which are attributable to such repaid, offset or recaptured Local Sales Tax Revenues that are not already covered by the Dion portion in the escrow account. If Dion fails to make such repayment within sixty (60) days after the

City's written demand, then such obligation shall accrue interest from the date of City's original written demand at the then-maximum legal rate imposed by the California Code of Civil Procedure on prejudgment monetary obligations, compounded monthly, until paid.

City and Dion agree that, should the SBE question the correctness of the allocation or determine that there has been an improper allocation to the City, City shall defend such allocation in all SBE administrative proceedings. For purposes of this paragraph, administrative proceedings include all SBE meetings, conferences, and appeals before SBE Board Members. Dion will cooperate fully with the City and its attorneys, and shall have the right to be present at and participate in all SBE administrative proceedings. The reasonable costs incurred by City and Dion in connection with SBE administrative proceedings will be shared and borne 50% by Dion and 50% by City.

4.2.7 Indemnification and Defense of Third-Party and SBE Actions; 50% / 50% Allocation of Such Indemnity Costs. The Parties shall mutually defend, indemnify and hold harmless each other, their officers and employees from any third-party claims, lawsuits, demands, causes of action, liabilities or losses ("Claims") arising from this Location Agreement including, but not limited to, (i) those concerning the validity or enforceability of this or any related agreement between the parties, (ii) those arising from the performance of any party of the terms of this or any related agreement between the parties. The responsibility of each party will be to pay their respective share of the "Indemnity Costs" hereunder. Indemnity Costs include all costs of defense including reasonable attorneys' fees and costs, including all costs of necessary experts including appraisers, financial analysis, tax analysis, audits, and all other necessary consultants. Such costs further include the costs of any settlement or judgment concerning Claims. Claims include, but are not limited to, actions where (i) the City, their officers, agents or employees are made a party to any action or proceeding filed or prosecuted against Dion for any such Claims or Liabilities, or (ii) Dion, its officers, agents or employees is made a party to any action or proceeding filed or prosecuted against either city for any such Claims or Liabilities. The foregoing indemnification obligations shall not apply to Claims caused by the sole negligence of City, its officers or employees. This Section is only applicable to third-party Claims or Liabilities brought against City and/or Dion; this Section is not applicable to any claims or liabilities which City and Dion may have against each other.

4.2.8 Withholding City Payment for Indemnification. City may deduct from any City Payment any amount payable to Dion (i) any amounts which are necessary to compensate the City for any losses, costs, liabilities, or damages suffered by the City including due to Dion's failure to perform its indemnity obligations hereunder, and/or (ii) any and all amounts for which the City may be liable to third parties, by reason of Dion's acts or omissions in performing or failing to perform Dion's obligation under

this Agreement. In the event that any claim is made by a third party or otherwise, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due an amount sufficient to cover such claim. Said withheld monies will be held in a separate account accruing interest at the same rate as City's investments (without liability because of such withholding or interest rate). The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of Dion to insure, indemnify, and protect City as elsewhere provided herein. In the event City becomes aware of any such claim, it shall give Dion written notice of the basis of such claim including any documentation in connection therewith, and Dion shall have 20 days to provide a written response and City shall have 10 days thereafter to advise Dion of its action on such claim prior to withholding any amount. If Dion continues to dispute the withholding, City shall retain the funds until the dispute can be resolved. The claim must be actual and not merely potential or speculative, for example the filing of an action before the SBE, the filing of a lawsuit, the failure to pay Indemnity Costs which have been incurred pursuant to Section 4.2.7, or similar matter, is considered "actual."

4.3 Audit of Books and Records. Either Party shall, upon no less than seventy-two (72) hours prior written request from the other Party, make the entirety of its books and records relating to the calculation and determination of that Party's rights and obligations under this Agreement available at no cost to the requesting Party and/or its designees (including its accountants and/or attorneys) and shall direct its accountants and other consultants and contractors in possession of its books and records to do likewise; provided, however, that nothing herein shall be deemed to abridge or constitute a waiver of any Party's evidentiary rights and privileges arising pursuant to any provision of law hereof or as otherwise ordered by any court of competent jurisdiction. Each Party shall bear the costs of its own auditors, experts and other consultants it may engage to complete its investigation of the other Party's books and records hereof, or as otherwise ordered by the court, may be recovered as an item of litigation expense pursuant to Section 4.22.

4.3.1 Review of Dion's Operations. City may a conduct a review, upon reasonable notice, of Dion's operations in Long Beach to verify that Dion is conducting its sales operation in a way that requires the California local sales tax to be allocated to City.

4.3.2 Dion Review of City Records. In order to further the goals of this Agreement, upon reasonable notice, City shall allow Dion and its representatives to review records of the receipt of Local Sales Tax Revenues by the City, including information received from the SBE relating to Dion. In the event of an underpayment of Local Sales Tax Revenue by the SBE, the City will promptly use its reasonable good faith efforts to pursue its available administrative remedies against the SBE. Dion shall have the right to be present at and participate in all SBE administrative proceedings, at

Dion's cost and expense. The reasonable costs incurred by City and Dion in connection with such proceedings will be shared and borne 50% by Dion and 50% by City.

4.4 Event of Default. Each of the following shall constitute an "Event of Default":

4.4.1 Failure by a Party to comply with and observe any of the conditions, terms, or covenants set forth in this Agreement, if such failure remains uncured within thirty (30) days after written notice of such failure from the non-defaulting Party to the defaulting Party in the manner provided herein or, with respect to a default that cannot be cured within thirty (30) days, if the defaulting Party fails to commence such cure within such thirty (30) day period or thereafter fails to diligently and continuously proceed with such cure to completion. However, if a different period, notice requirement, or remedy is specified under any other section of this Agreement, then the specific provision shall control. A failure by Dion to comply with its obligations under Section 4.1.1 may be cured by Dion by paying to City, without interest, the amount of Local Sales Tax Revenues, net of the corresponding City Payments attributable thereto, that City would have received from Retail Sales made by Dion in breach of Section 4.1.1.

4.4.2 Any representation or warranty contained in this Agreement or in any application, financial statement invoice, certificate, or report submitted pursuant to this Agreement proves to have been incorrect in any material respect when made.

4.5 Rights and Remedies; Rights and Remedies Not Exclusive. Unless prohibited by law or otherwise provided by a specific term of this Agreement, the rights and remedies of Dion and City under this Agreement are nonexclusive and all remedies hereunder may be exercised individually or cumulatively. Upon the other Party's Event of Default, in addition to those remedies expressly granted herein, the Parties shall also have the right to seek all other available legal and equitable remedies.

4.5.1 Rights Not Granted under Agreement. This Agreement is not, and shall not be construed to be, a statutory development agreement under Government Code Section 65864 et seq. or a disposition and development agreement under Health and Safety Code Section 33000 et seq. This Agreement is not, and shall not be construed to be, an approval of or an agreement to issue permits or a granting of any right or entitlement by the City concerning any project, development, or construction by Dion in the City. This Agreement does not, and shall not be construed to, exempt Dion in any way from the requirement to obtain permits and/or other discretionary or non-discretionary approvals as may be necessary for the development, maintenance and operation of any project, development of construction of Dion within the City. This Agreement does not, and shall not be construed to, exempt Dion from the application and/or exercise of the City's power of eminent domain or its police power, including, but

not limited to, the regulation of land uses and the taking of any actions necessary to protect the health, safety and welfare of its citizenry.

4.6 No Financial Assistance. Dion covenants and agrees for the period beginning on the Effective Date and continuing until and including the termination of this Agreement, Dion will not directly or indirectly solicit or accept any Financial Assistance (as defined below) from any other public or private person or entity, to the extent such Financial Assistance is given for the purpose of causing or would result in either Dion's relocation of existing sales as of that date from the City or termination of this Agreement, unless it was in the event of a City default to this Agreement. For purposes of this Section 4.6, the term "Financial Assistance" means any direct or indirect payment, subsidy, rebate, or other similar or dissimilar monetary or non-monetary benefit, including, without implied limitation, payment of land subsidies, relocation expenses, public financings, property or sales tax relief or rebates, relief from public improvement obligations, and payment for public improvements to or for the benefit of Dion.

4.7 Sole Compensation. Both City and Dion expressly acknowledge and agree that Dion will receive no compensation under this Agreement other than the City Payments. Dion shall not be entitled to any reimbursement from City for any costs pursuant to this Agreement. The City Payment shall not be reduced or offset for any costs or expenses incurred by City in performing or preparing to perform its duties under and pursuant to this Agreement.

4.8 Termination. City or Dion may terminate this Agreement upon an Event of Default as described in Section 4.4 above. In addition, in the event that a court of competent jurisdiction determines that Local Sales Tax Revenues were improperly received by City and orders City to pay such improperly received Local Sales Tax Revenues as damages to a third party, and Dion received City Payments attributable to such improperly received Local Sales Tax Revenues more than six months prior to the Default Date, Dion shall repay such City Payments to City within sixty (60) days after written demand by City. Dion shall not terminate this Agreement in order to receive Financial Assistance from another locality in California; provided, however, in the event of termination by Dion for cause following an uncured default by City, Dion will have the right to receive Financial Assistance from another locality in California. Except as otherwise provided herein, upon such termination all executory obligations under this Agreement that accrue or arise subsequent to the date of termination shall also terminate, but obligations that have accrued or arisen prior to such termination shall remain in full force and effect. Without limiting the generality of the foregoing, no termination of this Agreement shall operate to release or discharge Dion from any obligation to refund to City any overpaid City Payment(s) in accordance with Section 4.2.

4.9 City and Dion Representations and Warranties.

All of the foregoing representations and warranties are made according to City's and Dion's actual current knowledge as of the Effective Date, without having undertaken any independent inquiry or investigation for the purpose of making such representation or warranty and without any duty of inquiry or investigation.

4.9.1 City Representations and Warranties.

i. City is a California municipal corporation and charter law city and has full legal right, power and authority to enter into this Agreement and to carry out and consummate all transactions contemplated hereby and, thereby, and by proper action City has duly authorized the execution and delivery of this Agreement.

ii. The representatives of City executing this Agreement are fully authorized to execute the same pursuant to official action taken by City. The representatives of Dion executing this Agreement are fully authorized to execute the same pursuant to official action taken by Dion.

iii. This Agreement has been duly authorized, executed and delivered by City and, assuming due execution and delivery by Dion, constitutes the legal, valid and binding agreement of City, enforceable against City in accordance with its terms, except as the same may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws in effect from time to time relating to or affecting the enforcement of creditor's rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law). This Agreement has been duly authorized, executed and delivered by Dion and, assuming due execution and delivery by City, constitutes the legal, valid and binding agreement of Dion, enforceable against Dion in accordance with its terms, except as the same may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws in effect from time to time relating to or affecting the enforcement of creditor's rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

iv. The execution and delivery of this Agreement, the consummation of the transactions on the part of City contemplated and the fulfillment of or compliance by City with the terms and conditions hereof, do not and will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, lease, contract or other agreement or instrument to which City is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of City, which conflict, violation, breach, default, lien,

charge or encumbrance would have consequences that would materially and adversely affect the consummation of the transactions on the part of City contemplated by this Agreement or the financial condition, assets, properties or operations of City.

v. There is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, municipal or other governmental authority pending or, to the knowledge of City, threatened against or affecting City or the assets, properties or operations of which, if determined adversely to City or its interests, would have a material and adverse effect upon the consummation of the transactions contemplated by or the validity of this Agreement, or upon the financial condition, assets, properties operations of City, and City is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Agreement or the financial conditions, assets, properties or operations of City.

4.9.2 Dion's Representations and Warranties.

i. Dion is a California corporation, and Amber Resources is a California limited liability company, and both have full legal right, power and authority to enter into this Agreement and to carry out and consummate all transactions contemplated hereby and, thereby, and by proper action Dion has duly authorized the execution and delivery of this Agreement.

ii. The execution and delivery of this Agreement, the consummation of the transactions on the part of Dion contemplated and the fulfillment or compliance by Dion with the terms and conditions hereof, do not and will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under any applicable law or administrative rule or regulations, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, lease, contract or other agreement or instrument to which Dion is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Dion, which conflict, violation, breach, default, lien, charge or encumbrance would have consequences that would materially and adversely affect the consummation of the transactions on the part of Dion contemplated by this Agreement or the financial condition, assets, properties or operations of Dion.

iii There is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, municipal or other governmental authority pending or, to the knowledge of Dion, threatened against or affecting Dion or its interests, which, if determined adversely to Dion or its interests, would have a material and adverse effect upon the consummation of the transactions contemplated by or the

validity of this Agreement, or upon the financial condition, assets, properties or operations of Dion, and Dion is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Agreement or the financial conditions, assets, properties or operations of Dion.

4.10 Amendment of Agreement. At any time City and Dion may determine that this Agreement should be amended for the mutual benefit of the Parties, or for any other reason, including an amendment to induce Dion to maintain its operations in the City when this Agreement could otherwise be terminated. Any such amendment to this Agreement shall only be by written agreement between City and Dion. City and Dion agree to consider reasonable requests for amendments to this Agreement which may be made by any of the Parties hereto, lending institutions, bond counsel or financial consultants. Any amendments to this Agreement must be in writing and signed by the appropriate authorities of both City and Dion.

4.11 California Law. This Agreement shall be construed and governed in accordance with the laws of the State of California.

4.12 Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

4.13 Business Days. Any act or thing required to be done or exist on any date set forth herein which does not constitute a Business Day in any year shall be deemed to be done or to exist on such date if such act or thing is done or exists on the next date, which constitutes a Business Day.

4.14 Tax Consequences. Dion shall be responsible for federal, state and/or local income taxes resulting from its receipt of the City Payments.

4.15 Consent. Whenever consent or approval of any Party is required under this Agreement, that Party shall not unreasonably withhold, delay or condition such consent or approval unless a different standard is otherwise provided by a specific provision of this Agreement.

4.16 Notices and Demands. All notices or other communications required or permitted between City and Dion under this Agreement shall be in writing, and may be (i) personally delivered, (ii) sent by United States registered or certified mail, postage prepaid, return receipt requested, (iii) sent by telecopy, or (iv) sent by nationally recognized overnight courier service (e.g., Federal Express), and addressed to the Parties at the addresses provided in Article 1 subject to the right of either Party to designate a

different address for itself by notice similarly given. Any notice so given by registered or certified United States mail shall be deemed to have been received on the fourth business day after the same is deposited in the United States mail. Any notice not so given by registered or certified mail, such as notices delivered by telecopy or courier service (e.g., Federal Express), shall be deemed received upon actual receipt of the same by the Party to whom the notice is given.

4.17 Nonliability of City Officials and Employees. No board member, official, contractor, consultant, attorney or employee of City shall be personally liable to Dion, any voluntary or involuntary successors or assignees, or any lender or other party holding an interest in Dion's property, in the event of any default or breach by City, or for any amount which may become due to Dion or to its successors or assignees, or on any obligations arising under this Agreement.

4.18 Nonliability of Dion Officials and Employees. No board member, official, contractor, consultant, attorney or employee of Dion shall be personally liable to City, any voluntary or involuntary successors or assignees in the event of any default or breach by Dion, or for any amount that may become due to City or to its successors or assignees, or on any obligations arising under this Agreement.

4.19 Entire Agreement. This Agreement contains all of the terms and conditions agreed upon by the Parties. No other understanding, oral or otherwise, in direct conflict with this Agreement shall be deemed to exist or to bind any of the Parties hereto. All prior written or oral offers, counteroffers, memoranda of understanding, proposals and the like are superseded by this Agreement.

4.20 Extensions and Delays; No Excuse Due to Economic Changes. Time is of the essence in the performance of the obligations of City and Dion under this Agreement. In addition to specific provisions of this Agreement, providing for extensions of time, times for performance hereunder shall be extended where delays in performance are due to war, insurrection; riots; floods; earthquakes; fires; acts of God or of third parties; third party litigation; acts of a public enemy; acts of governmental authorities; epidemics; quarantine restrictions; and freight embargoes (collectively, "Enforced Delays") provided, however, that the Party claiming the extension notify the other Party of the nature of the matter causing the default; and, provided further, that the extension of time shall be only for the period of the Enforced Delays. However, deadlines for performance may not be extended as provided above due to any inability of Dion to obtain or maintain financing for its operations or due to City's inability to make City Payments due and payable to Dion. In no event shall either Party be deemed in default of this Agreement because of an Enforced Delay event.

The Parties hereto expressly acknowledge and agree that changes in either general economic conditions or changes in the economic assumptions of any of them which may

have provided a basis for entering into this Agreement, and which occur at any time after the execution of this Agreement, are not Enforced Delays and do not provide any Party with grounds for asserting the existence of a delay or excuse in the performance of any covenant or undertaking which may arise under this Agreement. Each Party expressly assumes the risk that changes in general economic conditions, or changes in such economic assumptions relating to the terms and covenants of this Agreement could impose an inconvenience or hardship on the continued performance of such Party under this Agreement, but that such inconvenience or hardship is not an Enforced Delay and does not excuse the performance by such Party of its obligations under this Agreement.

4.21 Jurisdiction and Venue. Any legal action or proceeding concerning this Agreement shall be filed and prosecuted in the appropriate California state court in Los Angeles County, California. Both Parties hereto irrevocably consent to the personal jurisdiction of that court. City and Dion each hereby expressly waive the benefit of any provision of federal or state law or judicial decision providing for the filing, removal, or change of venue to any other court or jurisdiction.

4.22 Interpretation. City and Dion acknowledge that this Agreement is the product of mutual arms-length negotiation and drafting and that both Parties have been represented by legal counsel in the negotiation and drafting of this Agreement. Accordingly, the rule of construction which provides that ambiguities in a document shall be construed against the drafter of that document shall have no application to the interpretation and enforcement of this Agreement. In any action or proceeding to interpret or enforce this Agreement, the finder of fact may refer to any extrinsic evidence not in direct conflict with any specific provision of this Agreement to determine and give effect to the intention of the Parties with respect to any ambiguities in this Agreement.

4.23 No Waiver. Failure to insist on any occasion upon strict compliance with any of the terms, covenants or conditions hereof shall not be deemed a waiver by any Party of such term, covenant or condition, nor shall any waiver or relinquishment of any rights or powers hereunder at any one time or more times be deemed a waiver or relinquishment by any Party of such other right or power at any other time or times.

4.24 Successors and Assigns. The terms, covenants and conditions of this Agreement shall be binding upon and inure to the benefit of the Parties hereto and their voluntary and involuntary successors and assigns.

4.25 No Third Party Beneficiaries. The performance of the respective obligations of City and Dion under this Agreement are not intended to benefit any party other than City or Dion, except as expressly provided otherwise herein. No person or entity not a signatory to this Agreement shall have any rights or causes of action against any Party to this Agreement as a result of that Party's performance or non-performance under this Agreement, except as expressly provided otherwise herein.

4.26 Warranty Against Payment of Consideration for Agreement. Dion warrants that it has not paid or given, and will not pay or give, any third party any money or other consideration for obtaining this Agreement. Third parties, for the purposes of this Section 4.28, shall not include persons to whom fees are paid for professional services if rendered by attorneys, financial consultants, accountants, engineers, architects and the like when such fees are considered necessary by Dion.

4.27 Severability. City and Dion declares that the provisions of this Agreement are severable. If it is determined by a court of competent jurisdiction that any term, condition or provision hereof is void, voidable, or unenforceable for any reason whatsoever, then such term, condition or provision shall be severed from this Agreement and the remainder of the Agreement enforced in accordance with its terms; provided, if at any time the City fails to have the legal right to retain and control the disposition of at least 80% of its portion of the Local Sales Tax Revenues, or the obligation of City to pay the City Payment is held to be void or unenforceable, Dion will have the right, upon written notice to City, to terminate this Agreement without any liability to City.

4.28 Further Acts and Releases. City and Dion each agrees to take such additional acts and execute such other documents as may be reasonable and necessary in the performance of their obligations hereunder.

4.29 No Pledge or Hypothecation of This Agreement. Dion may not assign, transfer, encumber, or hypothecate its rights and/or obligations under this Agreement without the express written consent of City, which shall not be unreasonably withheld. Any unpermitted assignment, transfer, pledge, encumbrance, or hypothecation, or any attempt thereat, shall not confer any rights upon the purported assignee/transferee and shall constitute Dion's immediate and incurable material default of this Agreement, and City may, without providing Dion's notice or opportunity to cure, exercise those remedies available to City pursuant to Section 4.4. Notwithstanding the foregoing, Dion may undertake any of the following without the consent of City: (i) issue or transfer stock or other voting or ownership interests in Dion (and/or assign this Agreement in connection with any such issuance or transfer), (ii) merge or consolidate with any other entity, and/or sell or transfer all or substantially all of the assets of Dion (and/or assign this Agreement in connection with any such merger, consolidation or sale), or (iii) assign its interest in this Agreement to any entity that controls, is controlled by or is under common control with Dion; for purposes of the foregoing, "control" means the power, directly or indirectly, by voting rights, contract or otherwise, to direct or cause the direction of the management or policies of a person or entity.

4.30 Limitation on Liability; Limitation on Remedies. Notwithstanding anything in this Agreement to the contrary, the liability of Dion under this Agreement shall be limited solely to the amount of the City Payments actually received by Dion

under this Agreement, and in no event shall any recourse against any of the other assets of Dion be available to the City or any other person or entity hereunder. Except for the rights and remedies of the City provided for in Section 4.8 above, the sole right and remedy of the City under this Agreement in the event of a breach or default hereunder by Dion shall be to terminate this Agreement and cease the payment to Dion of the City Payments that would have accrued from and after the effective date of any such termination, if such breach or default by Dion is not cured within thirty (30) days after written notice thereof by City to Dion (which thirty (30) day period shall be subject to extension as provided in Section 4.4.1 above).

4.31 Relationship of Parties. The Parties shall not be deemed in a relationship of partners or joint ventures by virtue of this Location Agreement, nor shall either Party be an agent, representative, trustee or fiduciary of the other. Neither Party shall have any authority to bind the other to any agreement.

4.32 Restrictions on Transfer. The qualifications and identity of Dion are of particular concern to the City, and it is because of such qualifications and identity that City has entered into this Location Agreement with Dion. The City has considered the experience and financial capability of Dion and its Affiliates, and return on City's investment in Dion operations in the City. Based upon these considerations, the City imposes the following restrictions on transfer.

As used in this Section 4.33, the term "Transfer" shall include any assignment, hypothecation, mortgage, pledge, conveyance, or encumbrance of this Location Agreement, or the interests therein. A Transfer shall also include the Transfer to any person or group of persons acting in concert of more than fifty percent (50%) of the present ownership and/or control of Dion in the aggregate taking all Transfers into account on a cumulative basis. In the event Dion or its successor is a corporation or trust, such Transfer shall refer to the Transfer of the issued and outstanding capital stock of Dion, or of beneficial interests of such trust; in the event that Dion is a limited or general partnership, such Transfer shall refer to the Transfer of more than fifty percent (50%) of the limited or general partnership interest; in the event that Dion is a joint venture, such Transfer shall refer to the Transfer of more than fifty percent (50%) of the ownership and/or control of any such joint venture partner, taking all Transfers into account on a cumulative basis.

4.33 Transfers Require Approval. Dion shall not Transfer this Location Agreement or any of Dion's rights hereunder, or any interests in this Location Agreement, directly or indirectly, voluntarily or by operation of law, except as provided below, without the prior written approval of City which consent shall not be unreasonably withheld. In considering whether it will grant written approval to any assignment by Dion, which assignment requires City approval, City shall consider factors such as (i) whether Dion operations within the City would be jeopardized; (ii) the financial strength, reputation and capability of the proposed assignee to perform Dion's obligations

hereunder; and (iii) the proposed assignee's ability to generate a similar fiscal return to City.

No assignment or transfer by Dion of all or any portion of its interest in this Location Agreement (including without limitation an assignment or transfer not requiring City approval hereunder) shall be deemed to relieve Dion or any successor party from any obligations under this Agreement with respect to the performance hereof. In addition, no attempted assignment of any of Dion's obligations hereunder shall be effective unless and until the successor party executes and delivers to City an assumption agreement in a form reasonably approved by the City assuming such obligations.

4.34 Exceptions. The foregoing restrictions on transfers shall not apply to any of the following:

4.34.1 The conveyance or dedication of any portion of the Site to the City or other appropriate governmental agency, or the granting of any easements or permits needed to facilitate the Site's development.

4.34.2 A sale or Transfer resulting from or in connection with a reorganization as contemplated by the provisions of the Internal Revenue Code of 1986, as amended or otherwise, in which the ownership interests of a corporation are assigned directly or by operation of law to a person or persons, firm or corporation which acquires the control of the voting capital stock of such corporation or all or substantially all of the assets of such corporation.

4.34.3 A conveyance of this Location Agreement to any entity that is a Dion Affiliate. "Dion Affiliate" shall mean any entity which owns or controls Dion, to any entity owned or controlled by Dion, to any entity owned or controlled by or affiliated with any entity which owns or controls Dion, or to any entity resulting from a consolidation, or to the surviving entity in case of a merger, to which consolidation or merger Dion shall be a party, or to an entity to which all or substantially all of the assets of Dion have been sold.

4.34.4 Transfers of ownership or control interest between members of Dion's immediate family, or transfers to a trust, testamentary or otherwise, in which the beneficiaries are limited to members of Dion's immediate family, or among the entities constituting Dion.

4.35 Release of Dion. City's consent to a Transfer shall not be deemed to release Dion of liability for performance under this Location Agreement unless such release is specific and in writing executed by City, which release shall not be unreasonably withheld. Upon the written consent of City to the complete assignment of this Location Agreement and the express written assumption of the assigned obligations of Dion under this Agreement by the assignee, Dion shall be relieved of its legal duty

from the assigned obligations under this Agreement, except to the extent Dion is in Default under the terms of this Location Agreement prior to said Transfer.

4.36 Dion to Pay Transfer Costs. Dion will pay City their reasonable expenses for attorneys' fees and investigation costs necessary to investigate the suitability of any proposed assignee, and to review and finalize any documentation required as a condition for approving any Transfer.


[Signatures on following page]

IN WITNESS WHEREOF, the parties hereto have executed this Location Agreement as of the date set forth above.

CITY:

CITY OF LONG BEACH,
a California municipal corporation

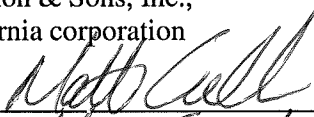
Dated: July 27, 2014

By:  **Assistant City Manager**
Patrick H. West EXECUTED PURSUANT
City Manager TO SECTION 301 OF
 THE CITY CHARTER.

DION:

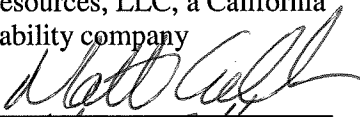
M.O. Dion & Sons, Inc.,
a California corporation

Dated: July 2, 2014


By: 
Name: MATT CULLEN
Title: PRESIDENT

Amber Resources, LLC, a California
limited liability company


Dated: July 2, 2014

By: 
Name: MATT CULLEN
Title: PRESIDENT

ATTEST:

By: 
City Clerk

This Agreement is approved as to form on July 15, 2014.

CHARLES PARKIN, City Attorney
By: 
Deputy City Attorney