

Robert E. Shannon
City Attorney of Long Beach
333 West Ocean Boulevard
Long Beach, California 90802-4664
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1 FIFTH AMENDMENT TO AGREEMENT NO. 28728 FOR LEGAL SERVICES

2 **28728**

3 THIS FIFTH AMENDMENT TO AGREEMENT NO. 28728 FOR LEGAL
4 SERVICES is made and entered, in duplicate, as of June 15, 2005, pursuant to a
5 minute order adopted by the City Council of the City of Long Beach on August 2, 2005,
6 by and between THE LAW OFFICES OF M. BRIAN McMAHON, hereinafter referred to
7 as "Special Counsel", and the CITY OF LONG BEACH, a municipal corporation,
8 hereinafter referred to as "City" amending that certain agreement ("Agreement")
9 between Special Counsel and City and identified by the City as Contract No. 28728.

10 WHEREAS, an Agreement for Legal Services with the Law Firm of M.
11 Brian McMahon was entered into, for reference purposes only, on March 1, 2004, in the
12 amount of \$200,000.00; and

13 WHEREAS, a First Amendment to Agreement for Legal Services was
14 entered on July 6, 2004, adding \$100,000.00; and

15 WHEREAS, a Second Amendment to Agreement for Legal Services was
16 entered on September 9, 2004, adding \$300,000.00; and

17 WHEREAS, a Third Amendment to Agreement for Legal Services was
18 entered on February 8, 2005, adding \$300,000.00; and

19 WHEREAS, a Fourth Amendment to Agreement for Legal Services was
20 entered on June 30, 2005, adding \$100,000.00; and

21 WHEREAS, a Fifth Amendment to Agreement for Legal Services is
22 required to increase the amount by \$350,000.00 in connection with the litigation of
23 Long Beach Oil Development Company vs. City of Long Beach, Case No. CV 03-6655;

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

26 Section 3 of said Contract No. 28728 is hereby amended in its entirety to
27 read:

28

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1 "3. Fee. City shall pay to Special Counsel in due
2 course of payments compensation at the hourly rates
3 identified in the staffing profile and reimbursement of costs
4 as further described in the 'Guidelines' also attached hereto,
5 not to exceed One Million Three Hundred Fifty Thousand
6 Dollars (\$1,350,000.00).

7 Sec. 2. Except as provided herein Agreement No. 28728, shall remain
8 unchanged and in full force and effect.

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

12 LAW OFFICE M. BRIAN McMAHON

13
14 Dated: August 15, 2005

15
16 M. Brian McMahon
M. Brian McMahon

17 CITY OF LONG BEACH
18 a municipal corporation

19 Dated: 8.17.05

20 By [Signature]
City Manager

21
22 The foregoing Fifth Amendment to Agreement No. 28728 for Legal
23 Services approved as to form this 16th day of August 2005.

24 ROBERT E. SHANNON, City Attorney

25 By [Signature]
26

27 RES:kdh

28 88/2/05

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