
O'Melveny & Myers LLP
Times Square Tower
7 Times Square
New York, NY 10036-6537

T: +1 212 326 2000
F: +1 212 326 2061
omm.com

As of July 1, 2021

Donna M. Gayden, City Manager
City of Long Beach City Hall
1 West Chester Street,
Long Beach, NY 11561

Re: O'Melveny & Myers Terms of Extended and Expanded Engagement

Dear City Manager Gayden:

We are pleased to continue to serve as attorneys for the City of Long Beach (the "City"). This letter extends and supplements our engagement letter dated as of April 1, 2021, including but not limited to the standard Terms of Engagement, and specifically including the consents and waivers of conflicts and alternative dispute resolution provisions therein (the "Initial Engagement Letter"),¹ all of which continue in effect as originally agreed but are extended to include Phase 2, as set forth herein.

Our engagement by the City on the Subject Matter will no longer be limited to Phase 1 matters, but shall be expanded to include, in addition to the Phase 1 work described in the Initial Engagement letter, the following services ("Phase 2"): (a) continued analysis of and recommendations related to the financial and operational obligations of the City in consultation with the City and its other professionals, (b) assisting the City on developing and evaluating restructuring and negotiation proposals with key stakeholders with the goal of reaching agreements on a consensual out-of-court restructuring, (c) advising the City with respect to litigation against the City and labor negotiations, (d) other matters related to the Subject Matter at the request of the City Manager.

For services after July 1, 2021, our fees will no longer be subject to Initial Monthly Cap but shall be determined by the time devoted by each lawyer or other service provider involved in the engagement based on the hourly billing rates assigned to each such person. As a courtesy to the City we have agreed that such hourly billing rates will be discounted by 10% off our current hourly rates.

A schedule of the current hourly rates is set forth on Exhibit A hereto. As discussed in the Terms, our rates will change from time to time based on, among other variables, increases as of January 1 of each calendar year, changes in attorney seniority or status, changes in our rates generally and changes in the nature of the services performed. Any discounts beyond those reflected in

¹ Capitalized terms used but not defined herein shall have the meanings ascribed to them in Initial Engagement Letter.

this letter must be approved in writing by the coordinating partner for the client at the firm, with our management's written consent; absent such approval, you agree that no discounts will be unilaterally imposed on our statements by City, whether directly or indirectly.

After such consultation with other counsel as you deem appropriate, please confirm this new arrangement and the application of the Initial Engagement Letter and conflict waivers, as above expanded/modified to include the additional work on the Subject Matter referenced herein, by signing and returning to me the enclosed extra copy of this letter.

We appreciate your continued confidence in us, and we look forward to continuing our work with you on this matter.

If you have any questions, please contact me.

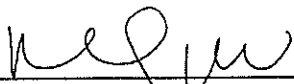
Sincerely,



Maria J. DiConza

**ACCEPTED AND AGREED WITH
CONSENTS AND WAIVERS GRANTED:**

City of Long Beach

By  _____

Its: CITY MANAGER

Exhibit A

2021 Hourly Rates²

Timekeeper	Level	2021 Std. Rate	2021 Std. Rate w/ 10% Discount
DiConza, Maria	Partner	\$1,400.00	\$1,260.00
Rapisardi, John	Partner	\$1,650.00	\$1,485.00
Friedman, Peter	Partner	\$1,550.00	\$1,395.00
Cantor, Daniel	Partner	\$1,300.00	\$1,170.00
Hinker, Matthew	Partner	\$1,100.00	\$990.00
Other Partners	Partner	\$1,100.00 - \$1,650.00	\$990.00 - \$1,485.00
Yassin, Mohammad	Counsel	\$1,105.00	\$994.50
Kremer, Matthew	Counsel	\$1,030.00	\$927.00
Olivera, Gabriel	Counsel	\$980.00	\$882.00
Other Counsel	Counsel	\$935.00 - \$1,040.00	\$841.50 - \$936.00
Murray, Aisling	Associate	\$705.00	\$634.50
Other Associates	Associate	\$610.00 - \$940.00	\$549.00 - \$846.00
Paralegals	Paralegal	\$190.00 - \$440.00	\$171.00 - \$396.00

² Rates are subject to increase effective as of January 1, 2022, and each January 1 thereafter.

Authorizing City Council Resolution Detail: #139/21

April 13, 2021

Item No. 3
Resolution No. 65/21

The following Resolution was moved by Ms. Treston
and seconded by Ms. McInnis :

Resolution Authorizing the Retention of Outside Counsel.

WHEREAS, the City of Long Beach faces current and prospective financial obligations which could exceed \$460 million; and

WHEREAS, the City's history of borrowing money to fulfill its financial obligations, among other factors, have contributed to the decline of its fiscal health and has led to a credit status of Baa2 with a negative outlook; and

WHEREAS, the City of Long Beach desires to retain legal counsel regarding the restructuring of its financial obligations; and

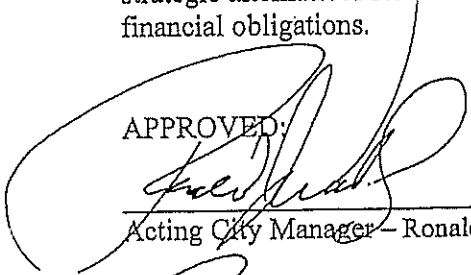
WHEREAS, the law firm of O'Melveny & Myers LLP, 7 Times Square, New York, NY 10036 has a team of lawyers well-versed and highly-regarded in financial restructuring; and

WHEREAS, the City of Long Beach desires to retain the services of O'Melveny & Myers LLP, 7 Times Square, New York, NY 10036;


NOW, THEREFORE, be it

RESOLVED, by the City Council of the City of Long Beach, New York, that the City Manager be and is hereby authorized to enter into a limited retainer agreement with the firm of O'Melveny & Myers LLP, 7 Times Square, New York, NY 10036 to work with the City and its consultants to provide legal advice on financial restructuring, which includes the analysis of strategic alternatives related to the City's financial obligations and matters related to such financial obligations.

APPROVED:


Acting City Manager - Ronald J. Walsh, Jr.

APPROVED AS TO FORM & LEGALITY:


Acting Corporation Counsel - Richard Berrios

VOTING:

Council Member Delury	-	AYE
Council Member Mandel	-	AYE
Council Member Treston	-	AYE
Vice President McInnis	-	AYE
President Bendo	-	AYE

September 9, 2021

Item No. 6
Resolution No. 139/21

The following Resolution was moved by Ms. Treston
and seconded by Mr. Mandel :

Resolution Authorizing the Continued Retention of
O'Melveny & Myers LLP.


WHEREAS, pursuant to Resolution No. 65/21, duly adopted by the City Council on April 13, 2021, the City entered into a limited retainer agreement with the firm of O'Melveny & Myers LLP, 7 Times Square, New York, New York 10036 to work with the City and its consultants to provide legal advice on financial restructuring, which includes the analysis of strategic alternatives related to the City's financial obligations and matters related to such financial obligations; and

WHEREAS, it is the desire of the City to continue the retention of O'Melveny & Myers, LLP for the above stated services and in assisting the City on developing and evaluating restructuring and negotiation proposals with key stakeholders with the goal of reaching agreements on a consensual out-of-court restructuring; advising the City with respect to litigation against the City and labor negotiations and with other matters related to the subject matters at the request of the City Manager;

NOW, THEREFORE, be it

RESOLVED, by the City Council of the City of Long Beach, New York that the City Manager be and is hereby authorized to enter into a continued retainer agreement with the firm of O'Melveny & Myers LLP, 7 Times Square, New York, New York 10036 for legal counsel regarding the restructuring of the City's financial obligations, litigation against the City, labor negotiations, and other matters at the request of the City Manager.

APPROVED:



City Manager-Donna M. Gayden

APPROVED AS TO FORM & LEGALITY:



Corporation Counsel-Richard Berrios

VOTING:

Council Member Delury	-	AYE
Council Member Mandel	-	AYE
Council Member Treston	-	AYE
Vice President McInnis	-	AYE
President Bendo	-	AYE

September 9, 2021

Item No. 10
Resolution No. 143/21

The following Resolution was moved by Ms. Treston
and seconded by Mr. Delury :

Resolution Authorizing the Extension of the Contract
Memorializing the City Manager's Employment.

WHEREAS, Donna M. Gayden, was duly appointed as City Manager by the City Council of the City of Long Beach on February 27, 2020, pursuant to Resolution No. 15/20; and

WHEREAS, on August 18, 2021, pursuant to Resolution No. 72/20, the City Council entered into an employment contract with Donna M. Gayden for a term of one year, commencing September 1, 2020 through August 31, 2021; and

WHEREAS, section 2(A) of the August 18, 2021 employment contract stated that upon the mutual agreement of the parties, the employment contract may be extended for an additional three (3) months; and

WHEREAS, both parties have agreed to extend the employment contract for an additional three (3) months;

NOW, THEREFORE, be it

RESOLVED, that the City Council of the City of Long Beach, New York authorizes the extension of the employment contract with Donna M. Gayden, and the terms and conditions set forth therein, through November 30, 2021.

APPROVED:

VOTING:

APPROVED AS TO FORM & LEGALITY:


Corporation Counsel

- Council Member Delury - AYE
- Council Member Mandel - AYE
- Council Member Treston - AYE
- Vice President McInnis - AYE
- President Bendo - AYE

O'Melveny & Myers LLP
Times Square Tower
7 Times Square
New York, NY 10038-6537

T: +1 212 328 2000
F: +1 212 328 2061
omm.com

As of April 1, 2021

Marla J. DiConza
D: +1 212 326 2144
mdlconza@omm.com

Donna M. Gayden, City Manager
City of Long Beach City Hall
1 West Chester Street,
Long Beach, NY 11561

Re: O'Melveny & Myers Terms of Engagement, Conflict Waiver and Relationship Matters

Dear City Manager Gayden:

We are pleased to have the opportunity to serve as attorneys for the City of Long Beach (the "City"). This letter agreement and the enclosed Terms of Engagement (the "Terms") confirm our discussions and contain the City of Long Beach's agreement with us regarding the engagement of our firm, subject to the formal approval of the City Council.

Subject Matter and Scope of Representation

Our representation of the City of Long Beach relates only to restructuring advice, including analysis of strategic alternatives related to the City's financial obligations, and matters related thereto (collectively, the "Subject Matter"). We have not been asked to represent the City in other legal matters at this time and our representation as to any matters not specified herein will be subject to resolution of any further conflict issues that may arise and our acceptance in writing at the time of an authorized request from the City for such particular undertaking. The City can limit the scope of our representation at any time. Any substantial expansion of our representation must be evidenced by a written mutual understanding. Unless otherwise agreed in writing, the terms of this letter agreement and the Terms will also apply to any additional matters we agree to handle on the City's behalf.

Our engagement will initially be limited to an initial phase ("Phase 1") comprised of: (a) performing a restructuring analysis of the financial and operational obligations of the City in consultation with the City and its other professionals, (b) assisting in the development of a financial and operating plan for the City, (c) preparing initial restructuring proposals and a plan for restructuring negotiations with key stakeholders with the goal of reaching agreements on a consensual out-of-court restructuring. As described below, we will perform the work necessary for Phase 1 for the monthly capped fee set forth in Section *Fees and Charges* of this Agreement.

We recognize that the situation facing the City is a dynamic one. As such, currently unanticipated developments may occur that could affect the nature and scope of our work and require that we adjust the engagement and/or the billing arrangements in consultation with you, subject to required approvals of the City Council. In addition, the Phase 1-related capped fee arrangement

Donna M. Gayden
April 1, 2021
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does not include all of the services that the Firm may be called upon to provide to the City. For example, and for the avoidance of doubt, Phase 1-related capped fee arrangement does not include any of the following: (a) any work related to any litigation or investigation of any kind, including labor or pension disputes, any internal departmental evaluation, or any other City dispute before any tribunal or authority; (b) the conduct or administration of any chapter 9 case; (c) any legislative activities; (d) any asset dispositions, privatizations, or other similar transactions, or any other capital raising transactions; and (e) any transactions necessary to implement a negotiated financial restructuring, such as new debt instruments, new labor contracts, or other agreements beyond restructuring term sheets. These additional activities may be performed by the Firm at the written request of the City Council subject to the terms herein and an agreement on a fee arrangement for such services.

We have agreed that any new or expanded engagement beyond Phase 1 will require our written agreement, subject to formal approval by the City Council.

Identify of Clients

We will represent only the City in connection with the Subject Matter. Unless expressly agreed in writing, we will not be representing any of the City's related or affiliated or associated persons or entities (i.e., any of the City's officers, directors, agents, or employees (collectively, "Agents"), in connection with the Subject Matter. Accordingly, we will generally not be precluded from representing other existing clients or future clients in legal matters relating or adverse to City's Agents, except as prohibited under applicable law and/or professional rules of conduct.

Waiver of Current and/or Potential and/or Future Conflicts

We represent many other clients. It is possible that during or after the time we represent the City, other present or future clients will ask us to represent them in disputes or transactions with or involving the City (which term in this section includes any of its agencies or its Agents) as to legal matters substantially unrelated to our representation of the City. The following are illustrative (but not all-inclusive). For example, we represent Johnson & Johnson in a number of matters pertaining to public and private claims arising out of the development, manufacture, advertising, sale and use of so-called opioid pharmaceutical products ("Opioid Matters"), and the City is or may become adverse as an ethical matter to Johnson & Johnson ("J&J") in the Opioid Matters. As we understand it, the City is a plaintiff in an action—entitled *City of Long Beach, NY v. McKesson Corporation et al*, Case No. 19-op-46005 ("City Litigation"), which is currently pending in the United States District Court for the Northern District of Ohio. The City Litigation is related to the ongoing multidistrict case captioned *In re: National Prescription Opiate Litigation*, Case No. 17-02804, which is also pending in the United States District Court for the Northern District of Ohio—in which we may be involved on behalf of J&J. Our acceptance of the engagement of the City in the Subject Matter is conditioned on our retaining our ability to represent J&J in existing and future Opioid Matter, including in litigation in which the City is, whether directly or indirectly, an adverse party or a non-party holding an adverse interest. The same is true of other clients, as described below. Please note that I am not currently personally involved in the Opioid Matters, but other members of the team may be involved and I may be involved in the future and we would not be

Donna M. Gayden
April 1, 2021
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screened from involvement despite our representation of the City in the Subject Matter, although we will of course comply with our professional obligations to protect the City's confidences.

As further illustrations, we may from time to time represent in various engagements, other clients such as: taxpayers or assesses against or before the City taxing or assessment authorities and other governmental entities; underwriters and providers of credit support (such as Bank of America, Morgan Stanley, Credit Suisse, Wells Fargo and various other banking and financial institutions) in financing matters involving or related to securities or obligations of the City and other governmental entities; developers, owners, lessors, lessees, or other recipients of the proceeds or benefits of financings by or on behalf of the City in their capacity as borrowers, recipients or users of tax-exempt and other financings by or through the City and other governmental entities; insurance companies providing insurance to the City, persons dealing with or responding to the City and other governmental entities acting in a regulatory or law enforcement capacity as an administrator, regulator or enforcer of environmental, securities, health care, safety, trade, antitrust and other laws; and persons in claiming or seeking benefits of various governmental programs or protesting the imposition of duties or restrictions or denial of benefits, or in seeking licenses, permits or variances in various transactional matters or other matters in the conduct of their business or affairs.

As a condition of our engagement in the Subject Matter, the City agrees to specifically consent to these other known or contemplated engagements and to waive any and all actual or prospective conflicts they may present so long as they are not in any way substantially related to the Subject Matter (the "Unrelated Adverse Matters").

You understand that one of the consequences of our representation in the proposed engagement, and of other clients in other matters, is that confidential information may come into our possession through our representation of other clients, which might be of material interest to the City, but that we will be unable to share with the City, and vice versa.

Understanding the implications of this consent, and as a condition to our accepting the Subject Matter representation for the City, it agrees that:

- we are permitted to represent parties or persons similarly situated, or any of their respective related persons, in the Opoid Matters and Unrelated Adverse Matters, including both current and future clients in existing and future such matters, even if these other clients' interests are directly adverse to those of the City, so long as the Unrelated Matters are not substantially related in any way to the Subject Matter;
- the City agrees not to seek our disqualification from representing any of such persons in the Opoid Matters and Unrelated Adverse Matters, or in any other matters or proceedings arising therefrom or related or incidental thereto, in any court or other proceeding;
- our inability to share confidential information of material interest to the City in the Unrelated Adverse Matters will not be deemed to violate any duty to the

Donna M. Gayden
April 1, 2021
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City; we will impose during this period a customary screen of attorneys working on the Subject Matter from those attorneys working on other matters recognized as directly adverse to the City;

- the City waives any conflict of interest that might arise from the Opioid Matters and Unrelated Adverse Matters; and
- if for any reason this consent and waiver of actual and potential conflicts is not effective in the circumstances of any matter (including by reason of the lack of authority by which the same are herein granted), the City consents to our immediate resignation from our representation in the Subject Matter, understanding that in such circumstances the City would likely incur additional expenses and inconvenience and would need to engage at the City's expense separate counsel to represent its interest; this consent to resignation is granted notwithstanding any applicable ethical or professional rule that would otherwise prevent a firm's withdrawal from a representation in order to take on a representation for another client, including one adverse to the terminated client, in a matter not substantially related to the work performed for the client. The City specifically waives the right to seek our Firm's disqualification, or mine personally, from any matter on the basis that we have resigned in derogation of that or any similar ethical or professional rule, or on the basis that we have obtained prejudicial confidential information in the course of our representation of the City in the Subject Matter.

Of course, without the City's further prior written consent, we cannot and will not represent another client in a matter adverse to the City if we have obtained confidential information of a nonpublic nature from the City, as a result of this representation, that, if known to the other client, could be used in the other matter by the other client to the City's material disadvantage, unless we establish an effective "screen" consistent with our customary practices to separate staffing and to preserve the confidences of each client; City consents to this arrangement.

In the event of any inconsistency between this agreement (including the Terms) and such provisions of the any forms, policies or guidelines supplied by the City in relation to the Subject Matter, the provisions of this agreement shall control.

You have advised us that your signature, along with the authorizing resolution detail which corresponds to the City Council's assent to these terms, which resolution was authorized on April 13, 2021, will evidence the approval by all necessary action of the City Council of Long Beach.

The occasion might arise for us to consult (at our expense, of course) regarding our engagement for the City with our own counsel— with our own outside counsel or with our General Counsel or other firm lawyers working with our General Counsel who do not perform work either for the City on the Subject Matter or work on the Opioid Matters or Unrelated Adverse Matters. To the extent that we are addressing our own rights or responsibilities, a conflict of interest might be deemed to exist between us and the City as to such consultation or resulting communications, particularly if a dispute were to arise between us and the City regarding the Subject Matter. A condition of

Donna M. Gayden
April 1, 2021
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this engagement is that, in such circumstances, the City hereby consents to such consultation occurring, and waives any claim of conflict of interest based on such consultation or resulting communications that could otherwise disqualify us from continuing to represent the City or from acting in our own behalf, even if doing so might be deemed adverse to the interests of the City. The City acknowledges that such communications are protected by our own attorney-client privilege from disclosure to the City.

Responsible Attorneys

John Rapisardi and I will be primarily responsible for this matter. My direct dial at the office is 212-326-2144 and my e-mail address is mdiconza@omm.com. I will need the assistance of other attorneys and staff for support, and may delegate to other attorneys and staff particular tasks and responsibilities to better serve your interests. If you have any questions at any time about appropriate staffing, I encourage you to call.

Fees and Charges

As you may be aware, our fees generally are determined by the time devoted by each lawyer or other service provider involved in the engagement and the hourly billing rates assigned to each such person. However, at the request of the City we have agreed that the Firm's fees for Phase 1 will be subject to a cap of \$250,000 per month for a period of 90 days commencing on April 1, 2021 (the "Initial Monthly Fee Cap"). For the avoidance of doubt, costs and expenses incurred are not subject to the Initial Monthly Fee Cap. Effective on the earlier of July 1, 2021 or the end of Phase 1, the Initial Monthly Fee Cap shall no longer apply and we will engage in good faith negotiations regarding compensation and disbursements for work performed by O'Melveny in connection with any Phase 2 services. Said compensation and disbursements for Phase 2 services shall be subject to the formal written approval of the City Council.

As discussed in the Terms, our rates will change from time to time based on, among other variables, changes in attorney seniority or status, changes in our rates generally and changes in the nature of the services performed. Any discounts beyond those reflected in this letter must be approved in writing by the coordinating partner for the client at the firm, with our management's written consent; absent such approval, you agree that no discounts will be unilaterally imposed on our statements by City, whether directly or indirectly.

For more information on this subject, including the frequency of billing, the payment deadlines, notice of rate changes, and other factors affecting fees and other charges, as well as agreements concerning charges and expenses, please refer to the Terms.

If for any reason you become dissatisfied with our charges or services, we encourage you to tell us immediately. We believe that most problems of this nature can be resolved promptly through good faith discussion.

The City acknowledges and agrees that the Firm is not acting as a state or federal contractor or subcontractor or as a federal grant recipient or sub-recipient and that no state or federal funds will be specifically directed by the state or federal government to make any payments to the

Donna M. Gayden
April 1, 2021
Page 6

Firm (i.e., the Firm will be paid from the City's general fund and not by or from any other source) in connection with this engagement. For the avoidance of any doubt, the City acknowledges and agrees that the Firm is not subject to Article 15-A of the New York State Executive Law or Executive Orders 11246 or 11375 or any related, similar, or applicable state or federal rules, regulations, or orders.

Arbitration

The Terms include an agreement to arbitrate certain matters before and pursuant to the Comprehensive Arbitration Rules and Procedures of JAMS in the City of New York. The City of Long Beach should note that discovery rules, standards of evidence, rights to appeal, and procedural rules, among other things, differ in arbitration from the rules applicable in a civil trial. By agreeing to arbitration, the City also will be agreeing to waive any right to a jury or court trial.

If the City does not wish to agree now to arbitration of any disputes, claims or controversies to the extent provided in the attached Terms, check this box . If the box is checked, the arbitration provisions in the enclosed Terms will be deemed deleted.

The City and we each agree to forego the right to a trial by jury with respect to any claims concerning or arising out of our relationship or our services, to the extent provided in the Terms.

Our engagement, conflict and billing practices reflect our desire to deal fairly with our clients in these as in all other aspects of our relationship. We welcome the opportunity to be retained by the City, and, assuming this letter is acceptable to the City, we look forward to providing our services to it on a mutually satisfactory basis.

We encourage the City to consult with other counsel or advisors of its choice regarding these matters, and to consider fully the possible implications of our representation on the basis described. If the City agrees to all the foregoing matters and Terms of Engagement, please communicate that agreement by having the appropriate authorized officer sign and return/by signing and returning to me the enclosed copy of this letter.

The effective date of our agreement is the date on which our services commenced. The date of this letter on page 1 is for convenience of reference only.

If you have any questions, please contact me.

Sincerely,

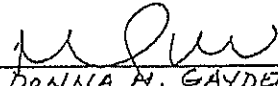


Marla J. DiConza

Donna M. Gayden
April 1, 2021
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ACCEPTED AND AGREED WITH
CONSENTS AND WAIVERS GRANTED:

City of Long Beach

By 
DONNA M. GAYDEN

Its: CITY MANAGER

Authorizing City Council Resolution Detail: #65/21

**O'MELVENY & MYERS LLP
TERMS OF ENGAGEMENT**

Except as modified in writing, O'Melveny & Myers LLP ("we") and the client ("you") agree to the following provisions with respect to the relationship between them identified in the accompanying letter agreement:

Respective Responsibilities of Attorney and Client

We will keep you reasonably informed of significant developments in the Subject Matter and as necessary to perform our services. We will consult with you as to our progress and issues that arise. We will also promptly comply with your reasonable requests for information related to the Subject Matter.

You will be candid and cooperative with us and will keep us informed with complete, accurate and timely factual information, documents and other communications relevant to the Subject Matter or otherwise reasonably requested by us to perform the services. We may rely on these communications, without independent verification. You will also assist us by making business, strategic and technical decisions appropriate to enable completion of the work and performance of the services. To the extent required, we will consult with you and explain the necessary aspects of the Subject Matter to enable you to make informed decisions.

We provide only legal services. You are not relying on us for and, among other things, we are not providing investment, insurance, accounting or technical advice or making business decisions, nor are we investigating the character or credit of persons with whom you may be dealing.

Timely Billing and Payments

Fees, charges and expenses will generally be billed monthly and are payable upon presentation. You agree that you will promptly review our statements, raise any questions regarding the amounts and items billed within 30 days of presentation, and pay all amounts billed consistent with these Terms of Engagement. You agree not to withhold any payment except with respect to particular fee, charge or expense items that are the subject of a specific, legitimate question. Absent our prior agreement in writing, we will deal directly with you on such questions, and not third-party consultants or auditors. We expect prompt payment. In our experience, prompt billing and prompt payment enhance the working relationship.

We will work with you to implement an electronic billing system if you request that we utilize one. However, you are responsible for the cost of unusual formatting or other customization costs (e.g., outside vendor charges or other costs necessary to accommodate special arrangements such as flat fee formulas, charges based on percentages of invoice amounts, audits or other special requirements), and you agree to pay any time and expenses incurred by us in implementing the necessary measures. We reserve the right to postpone or defer providing additional services or to discontinue our representation if billed amounts are not paid when due. We also reserve a right to charge a late fee at the rate of 3% per annum on all sums not paid within 30 days of

presentation of our statement, and you agree to pay such late fees if applicable. Our failure to charge late fees at any time or on any occasion(s) is not a waiver of our right to do so on any unpaid amount then outstanding, from the 31st day after such amount was first billed.

Billing Rates

You agree to pay our fees based on time expended on your behalf, computed on an hourly basis at our then applicable rates for this engagement for the applicable attorneys and staff on the matter.

Generally speaking, these hourly rates currently range, with limited exceptions, in our California, Washington, D.C., New York, and offices outside the United States from \$610 per hour for our most junior attorneys, to \$1,650 per hour for our most experienced partners.

For legal assistants and practice support staff and managers, the current range firm-wide is from \$50 per hour for our most junior clerks (\$190 per hour for junior legal assistants) to \$440 per hour for our most seasoned, non-attorney legal assistants and managers (except for certain special trade and other consultants whose higher rates are available on request). The rates and charges for attorneys and others domiciled in our New York office may differ from the rates for comparable services in our other offices.

Our statements also include charges for support services such as word processing, coders, text editing, distribution and proofreading, and (when required by the urgency of a client's matter) secretarial overtime. Our charges for those services currently range from \$30 to \$95 per hour. You agree to pay these charges as well.

We change our rates, as well as our other charges, from time to time (typically on January 1 of a calendar year), to reflect competitive conditions, inflation and other factors. You agree that those and other changes apply prospectively to all matters then being handled by the firm for you and may result in increases in excess of the specific numbers or ranges provided to you at a particular time. In addition to periodic or general changes in rates, changes in an attorney's status at various intervals may result in more frequent increases in a particular attorney's rate. (For example, if an associate becomes a senior counsel, his or her billing rate may exceed that of an associate with the same tenure; or if an associate becomes a partner, his or her rate will increase.) You will receive notice of general rate changes no later than upon delivery of our first statement that includes the new rates. Individual rate changes will be evident from the detailed information you receive with each bill.

The rates in all our offices of the specific attorneys or staff involved from time to time in your matters, and the basis of all of our other charges, are available to you at any time on request.

Charges for Other Items

Your statement will include other charges and costs, summarized below, that you agree by these Terms to pay and (unless we have agreed in the engagement letter or otherwise in writing) not deduct from your payment. (Additional information about the amount and the basis of all of our charges is available on request.) More specifically, you agree to pay:

Duplicating/Printing and Faxes. Our standard charges for duplicating (including copying, printing, scanning, and alternative means of reproduction), currently at \$.15 per page, except for outgoing facsimile transmission, currently at \$1.25 per page. Charges for faxes sent from our offices outside the United States may vary. There is no charge for incoming faxes.

Charges for Travel, Lodging, Meals and Meetings. Amounts charged for transportation fares, hotels and other lodging, meals and other travel accommodations, including (as applicable) agency fees.

If a meeting is for your benefit, direct and specific meeting-related costs, including but not limited to meals (and related service).

Electronic Research/Telephone Charges. Automated database and computer-assisted legal and other research and search charges, long distance telephone charges, and other similar items (generally billed at or below our estimated costs, including an allocation of associated overhead or of associated aggregate discounts or both). These charges are in addition to professional fees associated with the specific research or communications.

We include charges for any fee-based online research databases and services employed for a specific client matter; they are not treated as overhead (in contrast to certain real estate and equipment costs, which cannot reasonably be so attributed). Such costs are charged to the clients who utilize data services in direct proportion to their usage. We negotiate flat fee contract amounts, which are steeply discounted depending on total usage volumes, and the firm passes the discount on to clients by means of reasonable estimates.

Costs and Expenses. Any and all other costs that we incur for your benefit. These costs may include, for example, filing fees, special deliveries, messengers, expert witnesses, consulting services, external duplicating, and imaging, as well as special appearance fees and other local charges imposed on attorneys solely in connection with the specific engagement. You agree to pay vendor invoices sent to you for direct payment in a timely manner. (We assume no obligation to advance any costs or expenses on your behalf or to pay vendors, experts, consultants or other third parties we engage on your behalf.)

Specialized Equipment/Software/Data/Document Storage. If in the course of providing services to you we consider it to be desirable to use specialized equipment or software that we own (e.g., document database and other discovery management tools, or presentation technology for use at trial), or need to secure particular data or document storage to meet case needs, we will consult with you concerning the associated charges. If you consent to (or request) the use of such equipment, software or data/document storage, you will pay our reasonable charges for such usage, which may vary from the firm's actual costs.

Estimates Not Binding

It is often impractical to determine in advance the amount of effort that will be needed to complete all the necessary work on a matter or the total amount of fees, charges and costs that may be incurred. Obviously, if any estimates or budgets are provided, they may need to be adjusted upward or downward in response to changing circumstances. Unless otherwise expressly agreed

In writing, our estimates and budgets are not intended to be binding, are subject to unforeseen circumstances, and by their nature are inexact and do not limit or "cap" our fees and other charges or costs.

Experts

You authorize us to retain on your behalf or directly any investigators, consultants or experts necessary in our judgment to represent your interests.

Fees Not Contingent

Unless otherwise specifically agreed in writing, our fees are not contingent upon the outcome or completion of a matter.

No Guarantee of Outcome

We do not and cannot guarantee the outcome of any matter. Either at the commencement or during the course of our representation, we may express our opinions, views or beliefs concerning claims or courses of action and the results that might be anticipated. Any such statement made by any representative of our firm is intended to be an expression of opinions, views and beliefs only, based on information available to us at the time, and should not be construed by you as a guarantee of any type.

E-mail Communications

During the course of our engagement, we may exchange electronic versions of documents and e-mails with you using commercially available software. Unfortunately, such communications are occasionally victimized by the creation and dissemination of so-called viruses, destructive electronic programs or invasions of expected privacy. Our virus scanning software also may occasionally reject a communication that you send to us, or we in turn may send you something that is rejected by your system. We believe these infrequent occurrences are to be expected as part of the ordinary course of business, although they do affect the security and reliability of these communications.

We cannot guarantee that our communications and documents will always be virus free or immune from invasions of expected privacy, but we do take reasonable precautionary measures to keep our communications and documents secure. If for these or other reasons you would prefer or require that we not use electronic communications or that we follow special instructions or use encryptions, on e-mail or other communications, you should promptly advise in writing those working on your matters of this preference or requirement.

Consent to Publicity

As to matters in which we are representing you that are or become matters of public record, you confirm that you have no objection to our making public reference to this representation, consistent with our ethical responsibilities to otherwise maintain your confidences. Such

reference may include, without limitation, mention in our firm Web site, statements of an attorney's experience, brochures, matter lists, or promotional material.

Termination of Representation

You can terminate our services at any time. If you do, you agree to give us prompt written notice of the termination. Upon our termination, you will remain obligated to pay for all services rendered and costs or expenses paid or incurred on your behalf before the termination or which are reasonably necessary thereafter. If we are attorneys of record in any proceeding, you agree to promptly execute and return to us the Substitution of Attorney we provide to you.

We can also withdraw from this representation at any time, except to the extent limited by applicable law or rules of professional conduct. Some reasons for our withdrawal might include:

- You fail to honor the terms of our engagement letter and these Terms of Engagement or fail to pay our statements in a timely manner, or you decline to pay any increased rates contemplated by this agreement;
- You make it unreasonably difficult to represent you effectively or you insist on conduct contrary to our advice on a matter; or
- Facts or circumstances arise that, in our view, render our continuing representation unlawful or unethical.

If we elect to withdraw, you will take all steps necessary to free us of any obligation to perform further services, including the execution of any documents necessary to complete our withdrawal. Notwithstanding such withdrawal, you will remain obligated to pay us for all services provided and to reimburse us for all costs and expenses paid or incurred on your behalf before the termination or which are reasonably necessary thereafter.

Our representation of you will be considered terminated at the earliest of your termination of our representation, our withdrawal from our representation of you, or the substantial completion of our work for you (as may be evidenced by a final bill, by a substantial period of inactivity not caused by our negligence or otherwise).

Arbitration and Waiver of Jury Trial

Arbitration of All Disputes, Claims or Controversies. As a material part of our agreement, you and we agree that any and all disputes, claims or controversies arising out of or relating to this agreement, our relationship, or the services performed, will be determined exclusively by confidential, final and binding arbitration, in accordance with the then existing Comprehensive Arbitration Rules and Procedures of JAMS, in the City of New York. Disputes, claims and controversies subject to final and binding arbitration include, without limitation, all those that otherwise could be tried in court to a judge or jury in the absence of this agreement to arbitrate. Such disputes, claims and controversies include, without limitation, claims of professional malpractice or other disputes over the quality of our services, claims relating to or arising out of your or our performance under these

Terms, and disputes over fees or other charges, costs or expenses (except as covered by the next paragraph or prohibited by law) and any other claims arising out of any alleged act or omission by you or us. By agreeing to submit all such disputes, claims and controversies to binding arbitration, you and we expressly waive any rights to have such matters heard or tried in court before a judge or jury or in another tribunal. Any award will be final, binding and conclusive upon the parties, subject only to judicial review provided by statute, and a judgment rendered on the arbitration award can be entered in any state or federal court having jurisdiction thereof.

California State Bar Fee Arbitration. *Notwithstanding the above, in a dispute subject to the jurisdiction of the State of California over fees, charges, costs or expenses, you have the right to elect arbitration pursuant to the fee arbitration procedures of the State Bar of California, as set forth in California Business & Professions Code §§ 6200 et seq. Those procedures permit a trial after arbitration, unless the parties agree in writing, after the dispute has arisen, to be bound by the arbitration award. If you do not elect to proceed under the State Bar fee arbitration procedures, any dispute over fees, charges, costs or expenses, will be resolved by binding arbitration in accordance with the then existing Comprehensive Arbitration Rules and Procedures of JAMS, as provided above.*

New York Fee Dispute Arbitration. *Notwithstanding the above, in a dispute over fees, charges, costs or expenses ("NY Fee Dispute") subject to the jurisdiction of the State of New York Fee Dispute Resolution Program ("FDRP"), Part 137 of the Rules of the Chief Administrator of the courts of the State of New York, the commercial arbitration and waiver provisions of this section on "Arbitration and Waiver of Jury Trial" shall not apply to the NY Fee Dispute, unless you then duly elect to use such provisions after notice and due consideration of any rights you may then have to elect arbitration pursuant to the FDRP.*

Waiver of Right to Jury or Court Trial. *You understand that by entering into this agreement to arbitrate you and we are waiving any right to a jury or court trial, to the extent permitted by law.*

Other Arbitration Service Providers. *Nothing herein shall limit the right of the parties to mutually stipulate and agree to conduct the arbitration before and pursuant to the then existing rules of any other agreed-upon arbitration services provider.*

Disclosure of Conflicts and Other Information

To allow us to conduct a conflicts check, you represent that you have identified for us all persons and entities that are or may become involved in the subject matter, including all persons and entities that in any material respect are related, affiliated or associated with you, and other involved or potentially involved parties (such as parent corporations, subsidiaries and other affiliates, officers, directors and principals). You also agree that you will promptly notify us if you become aware of any other persons or entities that are or may become involved in the matter. You agree to cooperate fully with us and to provide promptly all information known or available to you that is relevant to our representation.

Registered Limited Liability Partnership/Limitation on Liability

The firm of O'Melveny & Myers LLP is a California registered limited liability partnership, registered also as a foreign limited liability partnership in other jurisdictions in which our domestic offices are located. As a result, with certain possible limited exceptions, none of which may be applicable, our partners, as distinguished from the partnership, by reason of being a partner or acting in the conduct of the business or activities of O'Melveny & Myers LLP, are not liable or accountable to you, directly or indirectly, including by way of indemnification, contribution, assessment, or otherwise, for debts, obligations, or liabilities of or chargeable to the firm or another partner, whether arising in tort, contract, or otherwise, that are incurred, created, or assumed by the firm.

Document Retention and Destruction

In the course of our representation of you, we are likely to come into possession of copies or originals of documents or other materials belonging to you or otherwise constituting client records, such as correspondence, pleadings, transcripts, exhibits, physical evidence, and other items reasonably necessary to your representation (collectively, "Client Materials"). Once the particular matter to which those Client Materials relate has been concluded, we will make arrangements either to return the Client Materials to you, retain them in our storage facilities or dispose of them. If you do not request their return and in the absence of any other specific arrangements with you or legal requirements to the contrary, you agree that we may dispose of those Client Materials consistent with any reasonable records retention policy that we may have in effect from time to time. Moreover, unless you have sought the return of such Client Materials within two years after the conclusion of the matter to which they relate, we may destroy them and will be relieved of any responsibility to you with respect to them. If we conclude that it would be inappropriate or impermissible to destroy all or any portion of these Client Materials, you agree that we may return or deliver them to you at your last known address, and we will be relieved of any responsibility with respect to them. We may retain copies if we choose. You agree to pay the expense of the return (or any other directed delivery) of Client Materials. You also agree to take possession (whether or not you take possession of other Client Materials) of original documents, such as wills, investments, stock certificates, etc., whereupon we will have no further responsibility for them.

Our own files pertaining to the matter will not be delivered to you. You agree that our firm files include, for example, firm administrative records, time and expense reports, personnel and staffing materials, and credit and accounting records, as well as internal lawyers' work product (such as drafts, notes, internal memoranda, and legal and factual research, including investigative reports and mental impressions, prepared by us or for our internal use). You agree that our files remain our property and for various reasons, including the minimization of unnecessary storage expenses, or for no reason, we may destroy or otherwise dispose of our files a reasonable time after the conclusion of the matter.

Miscellaneous

These Terms of Engagement and the accompanying letter agreement supersede all other prior and contemporaneous written and oral agreements and understandings between us, including

any outside counsel guidelines or service level agreements, or the like, that you adopt; contain the entire agreement between us; and can be modified only by your and our subsequent written agreement. You acknowledge that no promises have been made to you by us other than those stated in these writings.

Any provision of these Terms of Engagement or the accompanying letter agreement held in whole or in part to be unenforceable for any reason shall be severable if the essential terms of engagement both to you and us remain enforceable. In that case, the remainder of that provision and our agreement will remain in effect.

Our agreement will be governed by the Internal law, and not the law pertaining to choice or conflict of laws, of the State of New York, except to any extent required by applicable law or rules of professional conduct; *provided, however*, that to the extent any provision of the laws of the State of New York or otherwise conflict with the Federal Arbitration Act ("FAA") and case law interpreting the FAA, the FAA will govern.

Application to Other Matters

The agreement reflected in these Terms of Engagement and in the accompanying letter agreement applies to our present representation of you and to any subsequent matters we agree to undertake on your behalf, unless we agree in writing to a different arrangement.

You also agree to pay us on the same basis as set forth above with respect to our fees and charges and for expenses incurred in responding to subpoenas, in testifying (and preparing testimony) by deposition or otherwise, and otherwise responding with respect to obligations, claims or demands relating to or arising out of the matters in which we have represented or are representing you, whether or not related to our services and whether or not we are then representing you.

April 13, 2021

Item No. 3
Resolution No. 65/21

The following Resolution was moved by Ms. Treston
and seconded by Ms. McInnis :

Resolution Authorizing the Retention of Outside Counsel.

WHEREAS, the City of Long Beach faces current and prospective financial obligations which could exceed \$460 million; and

WHEREAS, the City's history of borrowing money to fulfill its financial obligations, among other factors, have contributed to the decline of its fiscal health and has led to a credit status of Baa2 with a negative outlook; and

WHEREAS, the City of Long Beach desires to retain legal counsel regarding the restructuring of its financial obligations; and

WHEREAS, the law firm of O'Melveny & Myers LLP, 7 Times Square, New York, NY 10036 has a team of lawyers well-versed and highly-regarded in financial restructuring; and

WHEREAS, the City of Long Beach desires to retain the services of O'Melveny & Myers LLP, 7 Times Square, New York, NY 10036;

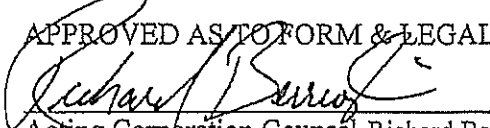
NOW, THEREFORE, be it

RESOLVED, by the City Council of the City of Long Beach, New York, that the City Manager be and is hereby authorized to enter into a limited retainer agreement with the firm of O'Melveny & Myers LLP, 7 Times Square, New York, NY 10036 to work with the City and its consultants to provide legal advice on financial restructuring, which includes the analysis of strategic alternatives related to the City's financial obligations and matters related to such financial obligations.

APPROVED:


Acting City Manager - Ronald J. Walsh, Jr.

APPROVED AS TO FORM & LEGALITY:


Acting Corporation Counsel - Richard Berrios

VOTING:

Council Member Delury	-	AYE
Council Member Mandel	-	AYE
Council Member Treston	-	AYE
Vice President McInnis	-	AYE
President Bendo	-	AYE