Council Meeting of
December 20, 2011

Honorable Mayor and Members
of the Torrance City Council
City Hall
Torrance, California

Members of the Council:

SUBJECT: City Attorney - Approve fee agreement to provide legal services

Expenditure: $125,000

RECOMMENDATION

Recommendation of the City Attorney that City Council:

1. Approve fee agreement with Liebert Cassidy Whitmore to provide legal services in the case of Nazir v. City of Torrance, et al., in an amount not to exceed $125,000; and,

2. Appropriate $125,000 from the Self-Insurance Reserve Fund.

Funding

Funding is available from the Self-Insurance Reserve Fund.

BACKGROUND AND ANALYSIS

The law firm of Liebert Cassidy Whitmore has been retained to represent the City in the recently filed lawsuit of Rehan Nazir v. City of Torrance, et al., LASC Case Number BC472979.

The firm is familiar with other Nazir matters and has specialized expertise in this area of litigation.

The City Attorney recommends that the City Council approve the Fee Agreement with Liebert Cassidy Whitmore for a total contract amount not to exceed $125,000.

Respectfully submitted,

John L. Fellows III, City Attorney

By_____
Alice Rusa
Law Office Administrator

CONCUR:

_____
John L. Fellows III, City Attorney

NOTED:

_____
LeRoy J. Jackson, City Manager

Attachment A: Fee Agreement

ATTACHMENT A

AGREEMENT FOR SPECIAL SERVICES

This Agreement is entered into between the law firm of LIEBERT CASSIDY WHITMORE, A Professional Corporation ("Attorney"), and the CITY OF TORRANCE, A Municipal Corporation ("City").

1. Conditions

This Agreement will not take effect, and Attorney will have no obligation to provide services, until City returns a properly signed and executed copy of this Agreement.

2. Attorney's Services

Attorney agrees to provide City with consulting, representational and legal services pertaining to Rehan Nazir v. City of Torrance et al, state lawsuit BC472979.

3. Fees, Costs, Expenses

City agrees to pay Attorney the sums billed monthly for time spent by Attorney in providing the services, including reasonable travel time, not to exceed the amount of $125,000.00.

The range of hourly rates for Attorney time is from One Hundred Eighty to Three Hundred Dollars ($180.00 - $300.00), and from One Hundred Five to One Hundred Forty Dollars ($105.00 - $140.00) for time of paraprofessional staff. Attorney reviews its hourly rates on an annual basis and, if appropriate, adjusts them effective July 1. Attorneys and paraprofessional staff bill their time in minimum units of one-tenth of an hour. Communications advice (telephone, voice-mail, e-mail) is billed in a minimum increment of three-tenths (.30) of an hour.

City agrees to reimburse Attorney for necessary costs and expenses incurred by Attorney on behalf of City. Attorney bills photocopying charges at Fifteen Cents ($.15) per page and facsimile charges at Fifty Cents ($0.50) per page. A Public Agency Fee Schedule is attached to this Agreement.

Payment by City against monthly billings is due upon receipt of statements, and is considered delinquent if payment is not received within thirty (30) days of the date of the invoice.

The California Business & Professions Code requires us to inform you whether we maintain errors and omissions insurance coverage applicable to the services to be rendered to you. We hereby confirm that the firm does maintain such insurance coverage.

4. Arbitration of Professional Liability or Other Claims

Disputes. If a dispute between City and Attorney arises over fees charged for services, the controversy will be submitted to binding arbitration in accordance with the rules of the California State Bar Fee Arbitration Program, set forth in California Business and Professions Code, sections 6200 through 6206. The arbitrator or arbitration panel shall have the authority to award to the prevailing party attorneys' fees, costs and interest incurred. Any arbitration award may be served by mail upon either side and personal service shall not be required.

If a dispute arises between City and Attorney over any other aspect of the attorney-client relationship, including, without limitation, a claim for breach of professional duty, that dispute will also be resolved by arbitration. It is understood that any dispute as to any alleged breach of professional duty (that is, as to whether any legal

services rendered under this agreement were allegedly unnecessary, unauthorized, omitted entirely, or were improperly, negligently or incompetently rendered) will be determined by submission to arbitration as provided by California law, and not by a lawsuit or resort to court process except as California law provides for judicial review of arbitration proceedings. **Both parties to this agreement, by entering into it, are giving up their constitutional right to have any such dispute decided in a court of law before a jury, and instead are accepting the use of arbitration.** Each party is to bear its own attorney's fees and costs.

5. File Retention

After our services conclude, Attorney will, upon City's request, deliver the file for the matter to City, along with any funds or property of City's in our possession. If City requests the file for the matter, Attorney will retain a copy of the file at the City's expense. If City does not request the file for this matter, we will retain it for a period of seven (7) years after this matter is closed. If City does not request delivery of the file for this matter before the end of the seven (7) year period, we will have no further obligation to retain the file and may, at our discretion, destroy it without further notice to City. At any point during the seven (7) year period, City may request delivery of the file.

6. Assignment

This Agreement is not assignable without the written consent of City.

7. Independent Contractor

It is understood and agreed that Attorney, while engaged in performing the terms of this Agreement, is an independent contractor and not an employee of City.

8. Authority

The signators to this Agreement represent that they hold the positions set forth below their signatures, and that they are authorized to execute this Agreement on behalf of their respective parties and to bind their respective parties hereto.

9. Term

This Agreement is effective November 28, 2011, ongoing and may be modified by mutual agreement of the parties. This agreement shall be terminable by either party upon thirty (30) days written notice.

LIEBERT CASSIDY WHITMORE,
A Professional Corporation

By: _____
J. Scott Tiedemann,
Managing Partner

Date 12/13/11

CITY OF TORRANCE,
A Municipal Corporation

By: _____
Frank Scotto, Mayor

APPROVED AS TO FORM:

JOHN L. FELLOWS III
City Attorney

By: _____

ATTEST:

_____
Sue Herbers, City Clerk

I. PUBLIC AGENCY FEE SCHEDULE

Hourly Rates (As of Contract Date)

Partners	$300.00
Of Counsel	$265.00
Associates	$180.00 - $245.00
Paraprofessionals	$105.00 - $140.00

II. COST SCHEDULE

1. Photocopies	$0.15 per copy
2. Facsimile Transmittal	$0.50 per page